

## **CHAPTER 5**

### **PROPERTY MANAGEMENT POLICIES AND PROCEDURES**

#### **5.01 GENERAL**

- 5.01-1 ORGANIZATIONAL RESPONSIBILITY
- 5.01-2 STATUTORY AUTHORITY AND REQUIREMENTS

#### **5.02 PRE-NEGOTIATION-REQUIREMENTS**

- 5.02-1 INSPECTION OF BUILDINGS AND/OR IMPROVEMENTS
- 5.02-2 PREPARING THE INVENTORY
- 5.02-3 ESTABLISHING VALUES

#### **5.03 NEGOTIATION ACTIVITIES**

- 5.03-1 OWNER RETENTION
- 5.03-2 ACQUIRED IMPROVEMENTS
- 5.03-3 RENTAL TO EXISTING OWNER/TENANT OCCUPANTS
- 5.03-4 EFFECTIVE DATE OF RENTAL AGREEMENTS FOR EXISTING OWNER/TENANT OCCUPANTS
- 5.03-5 OUTDOOR ADVERTISING SIGNS-RENTAL PROHIBITED

#### **5.04 POST-ACQUISITION ACTIVITIES**

- 5.04-1 VACATION AND PHYSICAL POSSESSION
- 5.04-2 INTERIM PROTECTION OF PROPERTY
- 5.04-3 SOLICITING NEW TENANTS
- 5.04-4 EFFECTIVE DATE FOR RENTAL AGREEMENTS FOR NEW TENANTS
- 5.04-5 LEASING OF LANDS TO GOVERNMENT AGENCIES
- 5.04-6 LEASING LANDS WHERE A DEDICATION OF RIGHT OF WAY FOR HIGHWAY PURPOSES (EASEMENT) WAS ACQUIRED
- 5.04-7 RENTAL TO DEPARTMENT EMPLOYEES

#### **5.05 RENTAL AGREEMENTS AND RECORDS - GENERAL**

- 5.05-1 NON-DISCRIMINATION PROVISIONS
- 5.05-2 TENURE OF RENTAL AGREEMENTS
- 5.05-3 RENTAL PAYMENTS AND DEPOSITS - ACCOUNTING
- 5.05-4 REFUNDS
- 5.05-5 RENTAL IN ARREARS
- 5.05-6 TAXING OF TENANTS ON EXEMPT LANDS
- 5.05-7 STATE REAL PROPERTY LEASING ACT
- 5.05-8 RENTAL OF RESIDENTIAL PROPERTIES LEAD-BASED PAINT HAZARDS

#### **5.06 MANAGEMENT OF ACQUIRED PROPERTY - GENERAL**

- 5.06-1 RENTABLE LANDS AND BUILDINGS
- 5.06-2 NON-RENTABLE LANDS AND BUILDINGS - DISPOSAL
- 5.06-3 RODENT CONTROL
- 5.06-4 CAPPING, SEALING OR FILLING OF WELLS, CISTERNS, BASEMENTS ETC.
- 5.06-5 STATUTORY REQUIREMENTS - TAX EXEMPT PROPERTY
- 5.06-6 MAINTENANCE OF RENTAL PROPERTIES
- 5.06-7 RECORDS AND REPORTS
- 5.06-8 INCIDENTAL EXPENSES-PROPERTY MANAGEMENT

#### **5.07 PUBLIC SALE OF BUILDINGS AND IMPROVEMENTS - GENERAL**

- 5.07-1 ADVERTISING AND NOTICE TO BIDDERS

- 5.07-2 BIDDERS PROPOSALS AND PERFORMANCE DEPOSITS
- 5.07-3 ACCOUNTING FOR PUBLIC SALE PROCEEDS
- 5.07-4 BILL OF SALE VALIDATION
- 5.07-5 REPORTING SALE TO CENTRAL BUREAU OF LAND ACQUISITION
- 5.07-6 SALE OF RESIDENTIAL IMPROVEMENTS - LEAD-BASED PAINT HAZARDS

#### **5.08 PRELIMINARY ASBESTOS SURVEYS AND DEMOLITION OF BUILDINGS – GENERAL**

- 5.08-1 ADDITION TO HIGHWAY CONSTRUCTION CONTRACT
- 5.08-2 DEMOLITION CONTRACT - UNDER \$10,000
- 5.08-3 DEMOLITION CONTRACT - OVER \$10,000 AND UNDER \$30,000
- 5.08-4 DEMOLITION CONTRACT - OVER \$30,000
- 5.08-5 DOCUMENTATION REQUIREMENTS

#### **5.09 MANAGEMENT AND DISPOSAL OF EXCESS LAND OR RIGHTS IN LAND NO LONGER NEEDED FOR STATE HIGHWAY PURPOSES - GENERAL**

- 5.09-1 INVENTORY AND MANAGEMENT
- 5.09-2 POLICY ON DISPOSAL OF EXCESS LAND
- 5.09-3 METHODS OF DISPOSAL - GENERAL
- 5.09-4 INITIATION OF DISPOSALS
- 5.09-5 SALE TO FORMER OWNER METHOD
- 5.09-6 PUBLIC SALE METHOD
- 5.09-7 EXCHANGE METHOD
- 5.09-8 INTER-DEPARTMENTAL TRANSFER METHOD
- 5.09-9 LEGISLATIVE RELEASE METHOD
- 5.09-10 CONVEYANCE TO ANOTHER GOVERNMENTAL AGENCY OR NOT FOR PROFIT ORGANIZATION

#### **5.10 MANAGEMENT OF OPERATING RIGHT OF WAY FOR NON-HIGHWAY RELATED USE - GENERAL**

- 5.10-1 DEFINITION
- 5.10-2 PROCEDURE TO USE SPACE - GENERAL
- 5.10-3 LEASE AGREEMENT
- 5.10-4 APPRAISAL
- 5.10-5 ADVERTISING & NOTICE TO BIDDERS
- 5.10-6 BIDDERS PROPOSALS AND PERFORMANCE DEPOSITS
- 5.10-7 AFTER THE BIDDING
- 5.10-8 SOLICITING NEW LESSEES OR RENEWAL OF LEASES
- 5.10-9 USE OF SPACE BY PERMIT
- 5.10-10 INVENTORY AND MANAGEMENT OF LEASED OR PERMITTED USE AREAS OF OPERATING RIGHT OF WAY

#### **5.11 LAND CONVEYANCE PROCEDURES INVOLVING JURISDICTIONAL TRANSFERS TO OTHER HIGHWAY AUTHORITIES**

- 5.11-1 LAND VACATED OR DISPOSED OF SUBSEQUENT TO IT BEING CONVEYED UNDER 605 ILCS 5/4-508(d)

### **CHAPTER 5 EXHIBIT INDEX**

## **CHAPTER 5 PROPERTY MANAGEMENT POLICIES AND PROCEDURES**

### **5.01**

#### **GENERAL**

Property management is that function of the right of way acquisition process concerned with the interim management of all newly acquired right of way and any improvements thereon, including the disposition of all such improvements, until such time as the acquired right of way is utilized for state highway construction purposes. This function also includes the inventory, management and disposition of excess remnants and any improvements thereon acquired as an incident to the acquisition of needed right of way and existing right of way which has been determined to be no longer needed for state highway purposes, and the leasing of operating highway right of way for non-highway related uses. The department's Land Acquisition Computer System (LAS) is an important tool for the department in implementing the Bureau of Land Acquisition's property management function. It is essential therefore that all data pertaining to the property management function be entered into the system once that data is available.

#### **5.01-1**

##### **ORGANIZATIONAL RESPONSIBILITY**

Central Office - The Division of Highways Central Bureau of Land Acquisition (CBLA) is responsible for developing, evaluating, interpreting and implementing the policies and procedures for the statewide land acquisition program. Responsibility for the statewide property management function is delegated to the Acquisition and Management Section of the central bureau and the Relocation-Property Management Unit within that section.

District Offices - The Division of Highways district offices are responsible for implementing the policies, procedures and programs of the division within their respective districts. Responsibility for the district's land acquisition program is delegated to the district Bureau of Program Development/Land Acquisition and the property management function is further delegated to the property management section or unit within the district bureau.

#### **5.01-2**

##### **STATUTORY AUTHORITY AND REQUIREMENTS**

Many of the procedures for implementing the property management function are guided by specific statutory authority or requirements contained in the Illinois Compiled Statutes. Those statutes, which in whole or in part affect the property management function, are listed as follows:

##### **Chapter 20 - Executive Branch**

20 ILCS 2705/2705-550	Transfer of jurisdiction over realty
20 ILCS 2705/2705-555	Lease of land

##### **Chapter 30 Finance**

30 ILCS 105/6r	Money received from rental of highway property
30 ILCS 500	The Illinois Procurement Code

30 ILCS 562/1.5	State Real Property Leasing Act
Chapter 35 Revenue	
35 ILCS 200/15-10	Exempt Property
35 ILCS 200/15-55	State of Illinois - Leased State Property-Exemptions
35 ILCS 200/9-195	Leasehold estate of tax exempt real estate
Chapter 425 Fire Safety	
425 ILCS 60/1	Smoke Detector Act
Chapter 605 Roads and Bridges	
605 ILCS 5/4-201.1	Rules, regulations and specifications
605 ILCS 5/4-201.16	Rental of lands, buildings or improvements - Annual report to the General Assembly
605 ILCS 5/4-501	Acquisition of land and property for state highways - eminent domain
605 ILCS 5/4-508	Sale or exchange of lands not needed - Conveyances to governmental agency/not-for-profit organizations - Conveyances to other highway authorities

It is required that all aspects of property management conform to the requirements of the Americans with Disabilities Act (ADA)(42 U.S.C. 12101 Et. Seq.).

## **5.02 PRE-NEGOTIATION-REQUIREMENTS**

### **5.02-1 INSPECTION OF BUILDINGS AND/OR IMPROVEMENTS**

When lead-time permits - buildings and/or improvements situated on the land to be acquired shall be inspected by the district's appraisal reviewer and the property and/or relocation manager as required in [Section 2.02-10](#). The purpose of this inspection shall be to determine and compile complete lists of items to be considered as real and personal property. These lists will be used by the appraiser for inclusion in the appraisal; by the relocation unit for future determination and verification of items moved and actual moving costs; and by the property management unit for determining owner retention, rental and sale values, inventory, management and disposition of acquired buildings and/or improvements.

When lead-time is not sufficient, upon receipt of the appraisals, the property and/or relocation manager should accompany the appraisal reviewer on his/her inspection of the property and jointly compile a complete list of personal property. A list of real property to be acquired may be obtained from the appraisal report. If any items believed to be personal property have been included in the appraisal, they shall be deleted either by a revision made by the appraiser or by the appraisal reviewer's documentation. Here again these lists will be used in the appraisal review and by the relocation and property management units.

In exceptional cases it may be necessary to obtain legal advice on any questionable determination of items of real or personal property. In any event, the lists of personal and real property must be compiled and be available for use by the property manager for establishing owner retention, rental and public sale values prior to releasing the approved appraisal for initiation of negotiations.

As a part of the property inspection, the type, number, and condition of the buildings and/or improvements to be acquired should be noted. If the buildings are not to be rented, the most feasible method of disposition should be considered, i.e., by sale, demolition contract or inclusion in the highway construction contract for removal by the contractor. This information is to then be added to the appropriate screen in LAS.

During the inspection particular attention should be given to the condition of land improvements, such as wells, cisterns, underground storage tanks and septic systems that could become health, environmental and safety hazards. These items should be noted in the file for possible future remedial measures. Procedures to be followed for proper disposition of these items are discussed in detail in [Section 5.06-4](#).

#### 5.02-2

#### PREPARING THE INVENTORY

The first step in the management of buildings and other land improvements requires that a complete inventory be prepared. [Exhibit 5.02-2A](#), "Project Inventory of Improvements" is to be utilized for this purpose. Line item instructions for this form are found in [Exhibit 5.02-2B](#). This form shall be initiated by the district as soon as project information becomes available from topographic maps or plans, from on-site inspection and listing of real property, or from the appraisals. This information is to be utilized in completing the improvement screen in LAS.

Acquired items specifically identified in the approved appraisal as improvements or fixtures which have a value for sale as individual items and which can be disposed of separately from the building, must also be inventoried and reported on the exhibit and shall be managed and disposed of in the same manner as buildings. Examples of such improvements or fixtures could be equipment, and/or integral plant equipment necessary to the operation of a business, fencing, bar equipment, wall cabinets, air conditioning units, heating plants, water heaters, water pumps, gas pumps, etc.

Nursery stock, regardless of minimum resale value, must also be inventoried, accounted for and disposed of in the same manner as building improvements. If nursery stock is likely to be acquired in quantity, the district landscape architect must be immediately notified by memorandum furnishing him/her with a complete inventory of the stock, listing the kind (species), number, the size, and the estimated date of availability. The form "Classification and Disposition Values - Nursery Stock" can be used for this purpose and is attached as [Exhibit 5.02-2C](#).

If any nursery stock is not to be retained for use within the district, this information will then be forwarded to the Central Bureau of Design and Environment that will determine if such stock should be retained for use on other state highway projects.

#### 5.02-3

#### ESTABLISHING VALUES

Prior to initiation of negotiations on the parcel, [Exhibit 5.02-3](#), "Improvement Disposition and Rental Values" shall be prepared. This requires that for each item inventoried a determination be made of:

- Owner retention value
- Current appraised value (minimum public sale value)
- Rental value (per month)

When establishing the owner retention and minimum public sale values of buildings, the estimates of value shall be supported by references to comparable sales of similar buildings, adjusted for time, condition of the improvement, etc., and then further adjusted, on the basis of judgment and experience. The variables to be considered would include availability and cost of vacant land, availability of moving contractors, probable moving costs, costs of any permits or fees, costs of any utility adjustments, availability of financing, other estimated restoration costs and probable restored market value and demand in the market. A source of supportive data is past owner retentions and public sales of comparable buildings and other improvements by the department with appropriate adjustments for location or other influencing factors.

When establishing values of items other than buildings, such as irremovables, they should be supported by reference to the appraisal, prior sales conducted by the department of similar property, or by contacting individuals having knowledge of such values. It is permissible to either value each item individually or one value may be established for a group of items so long as each item is listed within that group. Adjustments may be necessary on the basis of judgment and experience for removal costs, condition of property and such variables that are unique to each item.

When establishing the current rental rate for buildings, it shall be supported by references to comparable rentals of similar improvements with appropriate adjustments for location, condition, etc., and then further adjusted, on the basis of judgment and experience, for short term occupancy. Comparable buildings rented by the department are a good source of data for this purpose.

## 5.03 NEGOTIATION ACTIVITIES

When property being acquired for state highway purposes includes the acquisition of buildings or other improvements, the assigned negotiators should become familiar with the property management procedures in order that they may be able to discuss all the details and requirements for owner retention, public sale, rental, vacancy and possession with the property owner during their negotiation contacts. The succeeding paragraphs provide detailed procedures concerning owner retention, rental agreements, vacancy and possession requirements and public sales.

5.03-1 OWNER RETENTION

During negotiations every effort should be made to settle with property owners on the basis that they retain ownership of the acquired buildings and/or other land improvements and assume responsibility for their removal. If the owner is willing, and it is considered economically practicable insofar as the state is concerned to conclude negotiations on this basis, a credit is made on the total agreed consideration for the acquisition of the property for the amount of the previously established owner-retention value.

The terms for settlement and requirements for building removal shall be embodied in a written agreement between the district and the property owner. The form of agreement to be used is "Agreement for Retention and Removal of Buildings, and/or Other Improvements" ([Exhibit 5.03-1](#)). Provisions not applicable or not required may be deleted. Each deletion should be initialed and dated by each party to the agreement. It should be clearly set out in the

agreement that the owner's equity (total consideration less the owner retention credit to the state) shall be requested in two separate warrants. The second warrant shall represent a minimum of 10% of the (retention) value of the retained improvements as a performance deposit to be retained by the district to assure satisfactory removal and clearance of the right of way by the owner in accordance with the agreement. The amount of this warrant may, however, be increased at the discretion of the district engineer.

As an alternative, particularly if the removal operation is expected to approach a six month or longer duration, only one warrant need be requested for the full amount of the owner's equity. However, the owner must agree to deposit with the district his/her own certified check, bank draft or money order for the amount of the required performance deposit. This is an acceptable alternative since state warrants will not be honored for payment after six months from date of issuance. As a consequence, warrants not canceled within six months must be returned for re-issuance.

The agreement for removal must also specify the duration of time within which the retained improvements are to be removed and the right of way cleared. As a rule the removal of buildings and clearance of right of way should require no more than 90 days from the date payment is made to the owner. The owner, however, may request a delay in the removal of retained improvements providing the acquired right of way is not expected to be needed for construction of the proposed improvement project in the immediate future.

Therefore, when the removal and clearance operation is not expected to be commenced and fully completed within the 90-day period immediately following the acquisition, the owner shall be expected to enter into a rental agreement for occupancy of the land on which the retained improvements are situated. This will require that a current rental value for the land be established. The standard rental agreement form ([Exhibit 5.03-3A](#)) may be utilized and details therefore are discussed in [Section 5.05](#).

In cases where the owner has agreed to removal and clearance of the right of way within the 90 day or lesser period and it becomes apparent that the operation cannot be completed within that period because of extenuating circumstances, the owner may request in writing and be granted up to an additional 30 days rent free, in which to complete the removal and clearance operation. Such extensions shall only be granted where there is evidence the owner has been making a concerted effort to complete the removal within the initial period and circumstances beyond the control of the owner have delayed the operation. The file should be documented to substantiate any extension of time beyond the initial period.

Upon notification by the owner of completion of the removal, the district property manager shall inspect the property and if it is determined that the owner has satisfactorily cleared the right of way in accordance with the terms of the agreement, the performance deposit may then be released to the owner.

If it is determined the right of way has not been cleared in accordance with the terms of the agreement, the property manager shall immediately remind the former owner in writing of his/her responsibility to comply with the agreement. If the former owner does not comply within a reasonable time, the property manager will take immediate and appropriate action necessary to satisfy the terms of the agreement. Where completion of the removal must ultimately be accomplished by others at the direction of the district, the costs thereof will be immediately paid by the former owner in full by certified check, draft or money order at which time the performance deposit may be released. The owner's refusal or failure to perform or pay such removal costs shall be sufficient grounds for forfeiture of the performance deposit to the state as liquidated damages.

Any improvements being acquired as part of the right of way that are not retained by the owner, will therefore become the property of the state. As in any real estate transaction, it is the responsibility of the seller to protect, preserve and maintain the property being sold until the time he/she surrenders possession of the property to the buyer.

The district engineer at his/her discretion may request the owner's equity in two separate warrants. This would serve to assure that a property owner, either as the occupant or as a landlord, will assume responsibility in delivering the acquired property to the state in the best possible condition. Where two separate warrants are requested, the second warrant should represent a minimum of 10% of the value of the acquired improvements. The amount of this warrant may be increased at the discretion of the district engineer.

This warrant is to be retained by the district as follows:

- If property is owner-occupied - until the latter of either
  - The last day the premises are occupied by the owner; or
  - The date on which the state takes title to the property (final payment made and deed recorded or deposit of court award and Order Vesting Title entered); or
  - The effective date of a rental agreement with the owner
- If property is tenant-occupied – until the latter of
  - The last day the premises are occupied by the tenants; or
  - The date on which the state takes title to the property (final payment made and deed recorded or deposit of court award and Order Vesting Title entered)

These provisions are subject to the district's inspection of the property that will show if any of the acquired improvements and fixtures have been damaged or removed.

If it is determined that any improvements and/or fixtures have been unlawfully damaged in any way, or removed, the property manager will immediately estimate the value thereof and the former property owner shall be required to reimburse the state for the full amount of the estimated damages, if any, and the value of improvements removed from the premises. Payment should be by certified check or money order at which time the security deposit may then be released to the owner.

Both improved and unimproved right of way acquired for future state highway construction should be rented provided the construction schedule permits, and the condition of the land and/or building(s) is such that it can be rented and there is a market for such rental. In those instances when the department acquires property as a result of a hardship request it is department policy not to rent that property back to the person or entity from whom the property was acquired.



The occupation or use of acquired right of way under a rental agreement during the interim period prior to the project being scheduled for construction letting is advantageous to the department for several reasons. The rental proceeds generate a credit to the acquisition costs. The rental of such property deters vandalism, unlawful occupancy and creation of hazardous or unhealthful conditions. It preserves usable and sound buildings for future sale and removal and prevents vacant land from becoming unsightly and overgrown with noxious weeds or from becoming a dumping ground for junk or trash. Such rentals also provide interim housing for owner or tenant occupants in the process of locating or building replacement housing or business establishments in which to relocate. Our rental agreement form is shown as [Exhibit 5.03-3A](#).

It should be known or determined during the beginning of negotiations if the construction schedule is far enough in the future to permit the interim rental of the property. If the schedule will permit and buildings or land would be suitable for rental, the following steps should be taken during the negotiation and acquisition process for the parcel:

- **EXISTING OCCUPANT INTERVIEWS** - In connection with either negotiation and/or relocation assistance interviews with the existing occupants, it should be evaluated to tentatively determine their plans for relocating and vacating the parcel. The occupants should be informed at an early date of the availability of the property for rental in order to assist them in their future plans.
- **IF OWNER OCCUPIED** - At the time of reaching a negotiated settlement for acquisition of the property or as soon thereafter as possible, the owner occupant should have decided whether he/she is desirous of remaining on the property under a rental agreement, or if he/she intends to vacate and give physical possession of the property to the state. In either case, this choice must be made within 30 days after the state makes payment for and takes title to the property. It is preferable that all terms of rental or vacation of the property be embodied in the settlement agreement.

Where acquisition is by condemnation proceedings, this information may not be obtainable until after the quick take hearing but should be obtained prior to the deposit of preliminary just compensation and will require coordination with the Special Assistant Attorney General handling the case for the department.

- **IF TENANT OCCUPIED** - Tenant occupants should also be contacted soon after the settlement has been reached with the owner (or after the quick take hearing) to determine if they wish to remain on the property under a rental agreement, or if and when they expect to vacate the property. Again, in either case, a rental agreement should become effective or the property should be vacated within 30 days after the state makes payment for and takes legal title to the property.

The vacation of acquired land and buildings by the existing owner/tenant occupants is discussed in detail in [Section 5.04-1](#).

**CURRENT RENTAL RATES** - It may be that considerable time has lapsed or changing conditions will warrant a reevaluation and possible adjustment of the previously established rental rate. If the previously established rental rate is either increased or decreased, a revised [Exhibit 5.02-3](#) shall be prepared and inserted in the parcel file.

Rental rates are to be reviewed each year. If after reviewing the previously established rental rate it is determined the rate should not be changed, then the parcel file should be documented accordingly. [Exhibit 5.03-3B](#) shall be used to complete the annual rental review.

If upon review of the rate, any changes are necessary, notice to the tenant is required at least 30 days prior to the change. The form for this notice is shown as [Exhibit 5.03-3C](#).

#### 5.03-4 EFFECTIVE DATE OF RENTAL AGREEMENTS FOR EXISTING OWNER/TENANT OCCUPANTS

**IMPROVED RESIDENTIAL, COMMERCIAL OR INDUSTRIAL** - Any existing owner or tenant occupant who elects to remain as a resident or business occupant on the acquired property under a rental agreement shall not be permitted more than 30 days rent-free occupancy. Therefore, coincidentally with or as soon as possible after payment for the property is made to the owner, the effective date of the rental agreement should be established and the rental agreement executed. The effective date may be adjusted to commence at anytime within the 30 days immediately following payment for the property so as to coincide with the typical monthly billing period. The first rental payment is then due no later than the effective date of the agreement.

In the case of a farm residence acquired in connection with other farm buildings, the residence should be rented as a separate rental unit on a month-to-month agreement. The farm buildings should be rented as a separate rental unit including rental of any acquired farmland on an annual crop basis.

**UNIMPROVED AGRICULTURAL LAND** - In acquiring farm land where there are existing crops, it is customary, when the construction schedule permits, to allow the incumbent owner/tenant farm operator to retain physical possession of the acquired crop acreage rent free through the current crop growing season in order that they may harvest any existing crops. If the land is acquired any time between annual crop growing seasons, i.e., after fall harvest and prior to spring planting when no growing crops exist, and the land is not expected to be utilized for construction during the next crop year, it will be necessary to enter into a rental agreement with the farm operator for planting and harvesting future crops. Any costs incurred by the operator for ground preparation and/or fertilization prior to the acquisition would, of course, be recoverable from the future crop under rental agreement. Former owner landlords shall not be included as a party to any rental agreement with a farmer tenant operator. The preparation and terms of rental agreements are discussed in detail under [Section 5.05](#) below.

**SOIL EROSION AND SEDIMENTATION CONTROL-UNIMPROVED LANDS** - The Illinois "Soil and Water Conservation Districts Act", 70 ILCS 405, provides, among other things, for the control and preservation of soil erosion and sedimentation damages to all Illinois lands. This includes agricultural, non-agricultural and lands involving construction sites.

Section 27 thereof provides that "Agencies of this state which shall have jurisdiction over, or be charged with the administration of, any state-owned lands, and of any county or other governmental subdivision of the state, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly-owned lands, lying within the boundaries of any district organized hereunder, shall cooperate to the fullest extent practicable with the directors of such districts in the effectuation of programs and operations undertaken by the directors under the provisions of this act."

The water-quality management plan developed by the Illinois Environmental Protection Agency (IEPA) set a goal by the year 2000 for reducing soil erosion on all Illinois cropland to a soil-loss tolerance level. This level is the maximum average annual soil-erosion loss that may be permitted for sustained crop production at a reasonable cost and has been set at one to five tons per acre annually.

By the aforementioned Act, the legislature has amended the Illinois Soil and Water Conservation District law to require all local Illinois Soil and Water Conservation districts to establish soil-erosion standards for the land in their districts. The Illinois Department of Agriculture is charged with the responsibility for administering the program and has adopted guidelines (April 18, 1980) also setting a goal of reducing soil erosion on all lands to the soil loss tolerance ("T" value) by the year 2000. District soil erosion standards cannot exceed two times "T" from 1988 to 1994 and one and one-half times "T" from 1994 to 2000. Adopted standards cannot exceed the "T" value after January 1, 1988, on gently sloping land not exceeding five-percent slope provided that it can be accomplished with conservation tillage. Using the procedures outlined in the pamphlet "Estimating Your Soil-Erosion Losses with the Universal Soil Loss Equation (USLE)" printed by the University of Illinois College of Agriculture Circular #1220, you can learn if the soil-erosion loss exceeds these standards and determine what adjustment must be made to meet the standards.

The district property manager shall make every effort to successfully carry out this program on all acquired lands until such time as the acquired right of way is utilized for state highway construction or otherwise disposed of. Each parcel file should be documented to reflect all property management activities involving soil erosion and sedimentation control of such land. Additional assistance may be requested from CBLA.

#### 5.03-5 OUTDOOR ADVERTISING SIGNS-RENTAL PROHIBITED

Illinois law (605 ILCS 5/9-112.2) states that no person shall place or cause to be placed any sign or billboard or any advertising of any kind or description upon any state highway or any other highway outside the corporate limits of any municipality. Therefore, in keeping with the intent of this statute, any sign or billboard located upon newly acquired right of way shall be required to be removed or relocated as set out in [Section 4.20](#).

### 5.04 POST-ACQUISITION ACTIVITIES

#### 5.04-1 VACATION AND PHYSICAL POSSESSION

The determination that the incumbent owner or tenant occupants will not elect to remain in occupancy of the acquired property should be known at the time of the negotiated settlement or the quick take hearing, or no later than the time payment is made to the owner. As soon as an estimated date for their vacating the property can be established, the property can be advertised for rental, or tenants can otherwise be solicited. The actual date of vacancy by the existing occupants should be coordinated with the expected date the property will be available for a new tenant to occupy.

Several factors may influence the determination that it will not be feasible to enter into rental agreements for either improved or unimproved right of way. The most common is that the right of way acquisition is near completion and the project is being scheduled for the earliest possible letting of a state highway construction or building demolition contract, or for scheduling of public sale of the buildings to be removed by the successful purchasers.

If occupied property is required to be vacated by an owner or tenant, it will be necessary to give the occupants, or the owners of any personal property thereon, a 30-day specific date written notice to vacate the property. The "Notice to Vacate" ([Exhibit 6.14-C](#)) showing the specific date for vacating the property should be used for this purpose. The following conditions will affect the issuance of this notice.

- The 30-day specific "Notice to Vacate" cannot be issued under any circumstances until after either

- The owner has been paid and the deed recorded; or
- The amount of preliminary compensation has been deposited with the County Treasurer and the Order Vesting Title in the state has been entered by the court; or
- A final judgment order has been entered by the court, and the full amount of the court award has been deposited with the county treasurer
- The specific date for vacating the property as specified in the "Notice to Vacate," shall not, under any circumstances, be earlier than 90 days from the date of issuance of the Introductory Letter ([Exhibit 6.14-A](#), Residential or [6.14-B](#), Business) to the displaced owner or tenant occupant at the initiation of negotiations.

NOTE: The 30-day specific "Notice to Vacate" is not intended to be given to tenants under prior rental agreement with the state. Tenants under rental agreement will be notified in accordance with the provisions of the rental agreement which, as a general rule, also provides for a minimum 30 day notice.

Extenuating circumstances may prevent the occupants from vacating the acquired property by the date specified in the "Notice to Vacate." When an occupant requests an extension of time to remain beyond the initial 30-day free occupancy period (specified date of vacation), a maximum of 15 days may be granted subject to the occupant executing a rental agreement for the property effective on the first day following the initial specified date of vacation. The first month's rental shall be due and payable on the effective date of the rental agreement with the understanding that if the occupant actually vacates the property within the allowed 15-day extension, the rental agreement shall become null and void and his/her rental payment shall be returned in full. It is permissible to retain the first month's rental payment in the district office through the 15-day period for the probable return to the occupant.

The requirement for the occupant to execute a rental agreement and pay the first month's rent may be waived if the property manager can be fully assured the occupant will in fact be able to vacate the property within the 15-day extension.

#### 5.04-2 INTERIM PROTECTION OF PROPERTY

Preventive measures should be taken against trespassing, vandalism or fire if the buildings are expected to be unoccupied for any length of time. This can be accomplished by inspection of the building on the date it is vacated to be sure that all utilities serving the property are either disconnected or at least temporarily shut off; eliminate any obvious fire hazards within or around the structure; and be sure that the structure is left securely locked. The property manager should also immediately notify local law enforcement or protective agencies of the status of the property and take such other protective measures as the situation demands and as may be available in the area and further document these actions in the files.

#### 5.04-3 SOLICITING NEW TENANTS

As soon as it is determined the incumbent owner or tenant occupants intend to vacate the acquired property within the time allowed, every effort should be made to solicit prospective tenants. Whether or not there is an existing waiting list of prospective tenants will determine the extent of solicitation required. It may be necessary and is permissible to advertise locally for prospective tenants. Here again, changing conditions may warrant a re-evaluation and possible adjustment of the previously established rental rate. If, after re-evaluation, the rate differs, it will

be necessary to complete a revised Improvement Disposition and Rental Values, [Exhibit 5.02-3](#), indicating such change in the rate. Any solicitation should comply with the requirements set forth in [Exhibit 5.04-3](#), which will assure compliance with the Americans with Disabilities Act.

#### 5.04-4 EFFECTIVE DATE FOR RENTAL AGREEMENTS FOR NEW TENANTS

The effective date of the rental agreement with any new tenant should be no later than the date the prospective tenant expects to occupy the property. The security deposit and the first month's rent shall be due no later than the effective date of the agreement.

The preparation and terms of rental agreements are discussed at length in the following paragraphs.

#### 5.04-5 LEASING OF LANDS TO GOVERNMENT AGENCIES

There is no authority in Illinois to lease or rent lands, including improvements thereon for less than the current market rental rate for such property. Therefore the leasing or rental of land and/or improvements to governmental agencies will not differ from leasing or renting to any other tenant.

#### 5.04-6 LEASING LANDS WHERE A DEDICATION OF RIGHT OF WAY FOR HIGHWAY PURPOSES (EASEMENT) WAS ACQUIRED

Where the department possesses no more than the right of an easement for state highway purposes, such property can only be leased or rented to the owner of the underlying fee simple title, or to a prospective lessee or tenant who has obtained approval in writing from the owner of the underlying fee. Each case, however, must be approved by CBLA before execution of the lease or rental agreement.

#### 5.04-7 RENTAL TO DEPARTMENT EMPLOYEES

It is the policy of the department to not rent or lease any state property to employees of the department.

### 5.05 RENTAL AGREEMENTS AND RECORDS - GENERAL

The "Rental Agreement" ([Exhibit 5.03-3A](#)) shall be used for all month-to-month residential leases of acquired property. This form may also be used for the leasing of land and/or improvements for agricultural, commercial or business purposes by adding provisions or special terms applicable to such uses to insure adequate protection to the state. Where operating highway right of way has been approved to lease for a non-highway related use, the leasing process discussed in [Section 5.10](#) shall be followed.

#### 5.05-1 NON-DISCRIMINATION PROVISIONS

NOTE: This section deleted. Non-Discrimination Language added to lease.

#### 5.05-2 TENURE OF RENTAL AGREEMENTS

Illinois law (20 ILCS 2705/49.13), authorizes the leasing of any land or property under the jurisdiction of the department that is not to be immediately used or developed, provided that no such lease be for a longer period of time than five years.

In counties with a population of not less than 500,000 and not more than 800,000, a lease to any other department of State government, any authority, commission, or agency of the State, or a municipality, county, or township of the State, including in any land lease the corresponding vertical rights, subterranean and air rights, and sublease rights, may be for a period of time no longer than 25 years.

Generally, rental agreements for residential, commercial or business uses will be short term, on a month-to-month basis. Rental or lease agreements for agricultural land, however, will usually be for a one-year term. Short term rentals or leases of one year or less normally provides sufficient flexibility for cancellation in the event the proposed highway improvement, for which the land was acquired, is suddenly advanced to the construction letting stage. [Exhibit 5.03-3A](#) is to be used for this purpose.

However, in order to simplify the process of annual renewals of agricultural lands, the following amendment may be added to such leases each year for a period of time not to exceed an aggregate additional period of four years:

**EXTENSION:**

This lease shall be extended subject to and conditioned on the same provisions set forth herein from \_\_\_\_\_, \_\_\_\_\_ to and including \_\_\_\_\_, \_\_\_\_\_.

Signed \_\_\_\_\_, \_\_\_\_\_

STATE OF ILLINOIS  
DEPARTMENT OF TRANSPORTATION

By \_\_\_\_\_ (SEAL)  
LESSOR

\_\_\_\_\_  
LESSEE (SEAL)

If it becomes necessary to make mutually agreeable minor changes in the lease, they should be included in the amendment for extending such lease.

The leasing of state property for periods in excess of one year considerably reduces the department's flexibility to utilize the property on short notice and is therefore to be discouraged. Requests for leasing in excess of one year must receive closer scrutiny.

Therefore, when such a request is made, the district must submit a proposed rental agreement with its recommendation for leasing to the Central Bureau of Land Acquisition for review and approval by the Engineer of Land Acquisition and approval by the Secretary of Transportation. This procedure is applicable to the leasing of operating highway right of way for non-highway related uses discussed in detail in [Section 5.10](#).

**5.05-3 RENTAL PAYMENTS AND DEPOSITS - ACCOUNTING**

Rental payments for month-to-month standard rental agreements are due and payable in advance no later than the effective date of the agreement, or the first day of each succeeding monthly rental period until the agreement is terminated. In cases where the current monthly



rental rate may be a relatively small amount, agreements may be revised to permit a lump sum payment in advance of the effective date to cover several months rental, up to twelve months.

Rental payments for longer-term agreements, up to one year, should also be paid in a lump sum for the full term in advance of the effective date. However, in the case of rental of agricultural land, which is normally for a one-year term, it is permissible to provide in the agreement for payment to be made at the end of the crop year.

An "Accounts Receivable Invoice," Form AA 644 ([Exhibit 7.04-1A](#)) shall be prepared, processed and distributed by the district in accordance with the procedures outlined in [Section 7.04-4](#), by the 15th of the month prior to the date the rent is due, and mailed or delivered to the tenant. Where practicable, the rent due date should be the first day of the month, note [Exhibit 7.04-1B](#), "Preparation of Accounts Receivable Code Stamp."

Rental checks in the form of certified check, cashier's check or money order, made payable to the TREASURER-STATE OF ILLINOIS, shall be forwarded to CBLA Accounting and Administrative Services as soon as it is received by the district. The district engineer at his/her discretion may accept a personal check in payment of rent. However, it is strongly suggested that in order to avoid expenses for checks returned to the department due to insufficient funds that the check be subject to prior verification as to sufficient funds from the bank on which the check is drawn. Each payment shall be accompanied by an "Accounts Receivable - Remittance Statement" Form AA 646 prepared, processed and distributed by the district Bureau of Administrative Services in accordance with the procedures outlined in [Section 7.04-2](#).

The words "Improved" or "Unimproved" must be printed on the "Accounts Receivable Invoice" (Form AA 644, [Exhibit 7.04-1A](#)), and the "Accounts Receivable Remittance Statement" (Form AA 646), the word "Improved" is to be used when the rental property is improved with buildings, or the word "Unimproved" is to be used when the rented property is vacant land, i.e., parking lot, agricultural land, etc.

For improved rental properties, in addition to the advance payment for the first month's rent, the tenant shall also be required to make a separate security deposit (\$100 minimum) for losses or damages to the rental property as set forth in the Rental Agreement. Such deposit, in the form of a certified check, cashier's check or money order, made payable to the TREASURER-STATE OF ILLINOIS, shall be forwarded to the Central Bureau of Accounting and Auditing by the same procedure as set out above for rental checks.

#### 5.05-4

#### REFUNDS

Should a tenant be determined to be entitled to a refund of the amount deposited, or pro-rata portion thereof, a warrant in the amount of such refund may be requested through the Central Bureau of Land Acquisition as an expense incidental to property management. This matter is also discussed in [Section 7.04-6](#). Such a refund must be requested by memorandum from the district engineer stating the reasons such a refund is due the tenant. The request must also include the parcel identification, name and address of tenant, dates of initiation and termination (property vacated) of the rental agreement, dates and numbers of the accounts receivable invoice and remittance statement by which the deposit was previously submitted, the amount of such deposit, and the total sum of all rents collected during the term of the rental agreement.

Warrants for refunds issued by the State Comptroller will be sent directly to the payee based on the above information provided by the districts.

If the previous month's rent has not been received at the time of mailing the current month's invoice, a final demand letter ([Exhibit 5.05-5](#)) to the tenant stating the total amount of rent due shall accompany the current month's invoice. If the previous month's rent has not been paid within six weeks after its due date, it should then be determined delinquent, and a Notice and Demand for Possession must be served on the tenant(s) either by personal delivery or by posting on the premises door. All tenants who executed the rental agreement must be listed on the Notice. ([Exhibit 5.05-5A](#))

If the tenant is still in possession after the rent has been determined to be delinquent, the district shall take steps to regain possession by enforcing the terms of the rental agreement. Any change to an existing Accounts Receivable Invoice should be immediately reported to the district Bureau of Administrative Services (such as termination of a rental agreement, etc.). Form AA 644, "Accounts Receivable Invoice," shall be used to record this change for any addition (debit entry) or deduction (credit entry) to the original AA 644. All invoices in the above category are to include a brief explanation for the adjustment.

If the district is unable to recover rental arrears from a tenant in possession or from a tenant who has vacated the premises, the account shall be placed with the Central Bureau of Claims (CBC) for collection. The referral shall include a cover memorandum to detail what has transpired and what action is requested of the CBC (i.e. eviction and collection, collection only, declaration of uncollectible account). Legible copies of the rental agreement, rental application, notes, delinquent invoices, deed, letters, Final Demand Letter ([Exhibit 5.05-5](#)), Notice and Demand for Possession ([Exhibit 5.05-5A](#)) and the name and telephone number of the appropriate district contact person shall be included. The CBC will notify the district of all significant activity on the eviction/collection.

CBC will establish a file and notify the originating district of the proceedings and all subsequent actions. CBC will determine if the account will be referred to the Comptroller, a collection agency, the Attorney General or written off as uncollectible. Recoveries made by the CBC shall be forwarded to the district for processing. The district shall process the recovery on an Accounts Receivable Remittance Statement (AA 664), with the original sent to the Central Bureau of Accounting and Auditing, one copy to the district and one copy to the CBC.

CBC shall advise the district of any rental arrearage accounts determined to be uncollectible. The district must then prepare an AA 644 reversing entry (original plus three copies). The original copy of the CBC uncollectible determination shall be sent, with the AA 644 reversing entry, to the Central Bureau of Accounting and Auditing, and copies should be forwarded to the CBC, Central Bureau of Land Acquisition, and a copy retained in the district file.

Counties may assess the state's lessee on both improved and unimproved properties under the provisions of 35 ILCS 200/15-55 and 200/9-195. Detailed information such as parcel description and identification, rental rates and periods of rental shall be provided to the appropriate county assessors. It would seem appropriate that tax statements to the tenants should be pro-rated to cover only the actual number of months per taxing year in which each parcel is occupied by the tenants under a written rental agreement. The district shall place lessees/tenants of state-owned property on notice as to the possibility that the property leased, subleased, or rented from the state may be assessed to such lessee/tenant and taxes extended, billed to, and collected from the lessee/tenant. This notice is provided in the departments standard "Rental Agreement" ([Exhibit 5.03-3A](#)).



## 5.05-7

## STATE REAL PROPERTY LEASING ACT

The department shall not lease any real property to a person who is delinquent in paying any real property taxes on a leasehold estate under Section 9-195 of the Property Tax Code. If the department receives notice that a lessee of property, under the department's control, is delinquent in paying property taxes, the department shall notify the lessee that the lessee has 60 days to pay the delinquent taxes, plus penalties and interest, if any, or the lease shall be terminated. If the lessee fails to submit proof to the department that the lessee has paid the taxes, penalties, and interest, the department shall terminate the lease. A person whose lease was terminated under this Section is not allowed to lease state-owned real property or bid on a lease for state-owned real property for a period of two years after the termination of the lease.

Within 60 days after entering into an agreement to lease real property, the property manager will notify the county clerk of the county in which the real property is located of the name and mailing address of the lessee.

## 5.05-8 RENTAL OF RESIDENTIAL PROPERTIES LEAD-BASED PAINT HAZARDS

The Illinois Department of Transportation is required to inform all tenants of residential properties of any known lead-based paint hazards. This requirement directs that potential residential renters be fully cognizant of the hazards posed by lead-based paint and acknowledge this awareness in writing prior to the execution of the rental agreement.

[Exhibit 5.05-8](#) is provided in order to disclose any known lead-based paint hazards to potential tenants. The completion of this form is required prior to the execution of any residential rental agreement. A copy of a pamphlet entitled "Protect Your Family from Lead in Your House" will also need to be provided to all potential residential tenants.

## 5.06 MANAGEMENT OF ACQUIRED PROPERTY - GENERAL

### 5.06-1

### RENTABLE LANDS AND BUILDINGS

The District Property Manager is responsible for maintaining an inventory of any parcels of land and any improvements under the department's control that are currently being leased/rented. The appropriate rental screens should be formulated and maintained accordingly in the Land Acquisition System (LAS) and referenced in the Non-Operating Highway Right of Way (NORWAY) inventory.

If it is determined that any improved or unimproved properties should be rented, the district shall initiate and comply with the following procedures and regulations.

- Establish the rental rate for the property utilizing [Exhibit 5.02-3](#)
- Arrange for advertising or otherwise solicit tenants
- Prepare rental agreements ([Exhibit 5.03-3A](#))
- Supervise the properties and rental collections throughout the term of the rental agreements

- Provide for policing of unoccupied property and take immediate action to assure tenants occupy and maintain rented property in accordance with terms of the agreement, and to alleviate any hazards to public health and safety that may arise
- Prior to the rental of any improvement containing sleeping quarters, it is required by 425 ILCS 60/1 that operable smoke detectors be present. Once a structure becomes the property of the state, an inspection shall be conducted for compliance. This check and/or installation should then be noted on the "Improvement Disposition and Rental Values" ([Exhibit 5.02-3](#)). Subsequent rental of this structure should not be initiated without first seeing that all required detectors are present and operating. The tenant should also be advised concerning maintenance of the device.
- A copy of the lead poisoning brochure, furnished by the Department of Public Health, is to be supplied to all residential tenants. A record is to be kept in the parcel file acknowledging receipt by the tenant.
- State Real Property Leasing Act - This act prohibits the leasing (renting) of any state property to a person or entity delinquent in property tax payments. It requires the department to immediately notify the county clerk of all rentals (leases) and their mailing address. A copy of the executed lease (rental contract) should be mailed and a notation kept of the mailing date.

Acquired land and buildings, which have been placed under rental agreements shall be inspected at least annually to determine whether or not the terms of the rental agreements are being complied with, particularly with regard to proper maintenance and upkeep as set forth in the rental agreement. Such inspections are necessary in order that any apparent violations of the rental agreement may be detected at an early date and corrective measures taken before such violations become a nuisance to the general public or to any abutting property owners.

When violations appear to exist, the tenants should be notified immediately to correct the situation within a reasonable time or face possible eviction from the property and forfeiture of the required deposit for the last month's rent.

It is extremely important that on each occasion of inspecting rental properties a notation be made in the file indicating the inspector's observations. Such documentation to the file is particularly essential when irregularities are observed so that an accurate accounting of the corrective measures taken are a matter of record to anyone who might question the actions of the district at some later time.

## 5.06-2 NON-RENTABLE LANDS AND BUILDINGS - DISPOSAL

There will be occasions when the highway construction project is scheduled for an early contract letting and it is not feasible to rent acquired buildings. There will also be those situations where acquired buildings are not suitable for rental because of their poor condition, undesirable location or being the type of building for which there is no demand for rental.

Regardless of the reason for not renting acquired buildings, foremost consideration should always be given to disposal by public sale at the earliest possible time.

The public sale method of disposal is particularly desirable when the acquired buildings are in good sound condition, in a location where there is vacant land available and there is public interest for purchasing such buildings. The sale of usable buildings is desirable from the standpoint of conserving natural resources and good public relations. The department can be

subjected to public criticism for not attempting to sell usable buildings and allowing them to become vandalized and/or damaged beyond repair, ultimately requiring complete demolition.

Even though a scheduled construction contract letting may be imminent, usable buildings can be scheduled for public sale and removal to coincide with the process of advertising the project for bids, bid letting and awarding of the construction contract without delaying construction.

Ordinarily a determination that buildings will be non-rentable can be made prior to completing the acquisition. As soon as this determination is made, BRW 109, "Order and Approval to Dispose of Excess State Property" ([Exhibit 5.07-A](#)) should be prepared and submitted for obtaining the Governor's written approval to dispose of the buildings by public sale. Detailed procedures for this submittal and for the public sale of improvements are set out in [Section 5.07](#).

By obtaining the required approval prior to the time of the state's taking physical possession of the buildings, the dates for advertising and conducting the sale can be scheduled as nearly as possible to coincide with or immediately following the date of the state's taking physical possession.

In the case of a project on which Federal Highway Administration authorization is being sought to advertise for letting it will usually be necessary to include a special provision in the construction contract indicating that the buildings have or will be sold by public sale, and the estimated date for removal of the buildings from the right of way.

If it is determined that the public sale and removal of acquired buildings is not feasible because of their condition or location, particularly in an urban area, then consideration must be given either to an early demolition contract or for implementing adequate protective measures to prevent such buildings from becoming a public nuisance and hazardous to the health and safety of the community until such time as they can be removed from the right of way.

In all cases of buildings to be left vacant, the property shall be inspected as soon as it is vacated or the state takes physical possession, and if necessary, to make arrangements for all utilities to be shut off and preferably to be disconnected. Fire hazards, if any, should be eliminated from within or around all buildings and, where necessary, provide protection of the property from the effects of adverse weather conditions.

Additionally, all local law enforcement or protective agencies having jurisdiction should be notified of the status of the property. The file must be documented to include the dates of inspections, condition of the property, any hazards noted and the follow-up corrective action to be taken.

Special attention should be given to those buildings located in urban or more populated areas or neighborhoods where, if left in place, they could be expected to attract unlawful occupancy, vandalism or dumping of undesirable materials thereby creating a public nuisance, hazardous or unhealthy condition.

When it appears that these conditions could develop either at the time of acquisition or very soon thereafter, immediate consideration should be given to demolition of such buildings at the earliest possible date. Procedures for demolition are found in [Section 5.08](#).

The purpose of rodent control is to attempt the elimination of, and thus the migration of rodents from properties acquired as right of way for future highway construction to properties adjacent to such right of way.

The district should inspect all improved properties immediately upon vacation by the occupants or, in the case of vacant buildings, when the state takes possession of the buildings. Such inspection should be made and the necessary controls established prior to the demolition or removal of improvements located within the right of way.

If the inspection indicates rodent control measures are necessary, the following steps must be taken immediately:

- The district shall first contact and solicit the cooperation and participation of the appropriate local governmental agencies or units, such as the city and county health departments, and request that they assume responsibility for the control of rodents. If such agencies or units are agreeable, the project records should be so documented.
- If such local agencies or units are unable or unwilling to assume this responsibility, the district should proceed to obtain bids under those guidelines indicated in [Section 5.06-8](#).
- Bids for this work must be obtained from qualified and responsible exterminators and the contract specifications in the Scope of Service will, at the minimum, contain the following requirements:
  - Describe the building or specific area to be baited. Bait is to be distributed throughout the buildings on eight feet by eight feet spacing.
  - The contractor must agree to prominently display warnings of baited areas and provide for the protection of the health and safety of persons, pets or domestic animals that may have access to the baited area.
  - The contractor shall, at its own expense and in its own name, obtain all permits, certificates, and licenses required by the city of \_\_\_\_\_, the county of \_\_\_\_\_, the state of Illinois, and the United States of America, and shall carry on all work under the contract in strict conformity therewith, and shall save and keep harmless the state from any expense incurred thereby.
  - The contractor will be obliged to notify the district property manager at least twenty-four (24) hours in advance of the date the bait is to be placed. After the bait has been in place ninety-six hours (four days), the undersigned shall arrange for the collection and disposal of all uneaten bait and visible carcasses.
- The district may add other requirements in the Scope of Services of each contract as needed.

The district will thereafter be responsible for the supervision of the exterminating firm to ensure compliance with the specifications and standards established by the Illinois Department of Public Health and said specifications and standards must be made a part of each contract awarded.

Documentation of any inspections should be placed in the district land acquisition file for each inspected property and include the decision made as to whether or not control measures should be instituted and the action taken.

The cost of providing such rodent control is eligible for federal participation and reimbursement in the same ratio and in the same manner as any other project cost when accomplished in accordance with the aforementioned procedures.

#### 5.06-4 CAPPING, SEALING OR FILLING OF WELLS, CISTERNS, BASEMENTS ETC.

If property is not to be rented or sold as excess land and it is determined an existing water well, cistern or tank is hazardous to the health and/or safety of the community, immediate steps should be taken to either cap or fill the well and fill or remove the cistern or tank. This information should be added to the "Improvement" screen on LAS.

Dug or drilled wells shall be sealed according to the regulations of the Department of Public Health (DPH). More detailed procedures are set out in the Bureau of Design and Environment Manual and Memorandums.

The "Water Well Sealing Form" provided by the Department of Public Health - Division of Environmental Health must be completed by the contractor chosen to cap or seal the well. This form is then sent to the Department of Public Health at the address shown by the contractor with one copy retained by the district in the file. The Bureau of Design and Environment prepares the actual specifications concerning the well sealing procedures.

Contract specifications are available in the district if it is necessary to fill or remove cisterns, basements, etc., as a property management activity. The cost of this activity is also eligible for federal participation and reimbursement under the same circumstances and conditions as set out in [Section 5.06-3](#). For more information on filling wells see [Exhibit 5.06-4](#).

#### 5.06-5 STATUTORY REQUIREMENTS - TAX EXEMPT PROPERTY

Each year, on or before January 31st, the district is required to file an affidavit (PTAX 300) with each county assessor or supervisor of assessments, as the case may be, stating whether there has been any change in the ownership or use, or if there are any additions or deletions to previously listed tax-exempt properties within the county. This is a requirement of 35 ILCS 200/15-10 and failure to file such affidavit annually shall, at the discretion of the assessor or supervisor of assessments, constitute cause to terminate the exemption from taxation of that property. Therefore, the district should each year request and the assessor or supervisor of assessments shall furnish a form of such affidavit. The affidavit may state that "the ownership, use and status of each parcel is as it appeared on the last affidavit filed, except as noted;" then list your additions and deletions occurring since the filing of the previous year's affidavit.

Additionally, as required by the above cited statute, if any property listed by the assessor or supervisor of assessments as exempt is under rental agreement or leased, the district must also file a copy of all such leases or rental agreements in effect on January 1 of that year at the time the above affidavit is filed. Failure to file copies of leases or rental agreements is also subject to termination of exempt status the same as for failure to file the required affidavit.

35 ILCS 200/15-55 is similar to provisions of 35 ILCS 200/9-195 except that where state-owned property of one or more acres is concerned, the property can be assessed to the

lessee/tenant, and applies to all leases or agreements entered into or renewed. However the certificate or ownership or use, together with a copy of any written lease or agreement or explanation of an oral agreement on these properties, can be delayed until those in effect on March 30th of the assessment year can be listed. Such certificates or leases or agreements should be filed as soon thereafter as possible and no later than April 30.

The parcels containing less than one acre would still be covered by the provisions of 35 ILCS 200/9-195.

#### 5.06-6 MAINTENANCE OF RENTAL PROPERTIES

Item 6 of the "Rental Agreement" ([Exhibit 5.03-3A](#)) provides as follows:

"That said STATE by the terms of the agreement or otherwise, shall not be bound to do or cause to be done any maintenance, repairs, replacements, redecorating or improving of said premises or appurtenances thereto."

It is not the policy of the department to become obligated to any tenant under rental agreement to provide, any maintenance, repairs, replacements, redecorating or improving of acquired properties being rented. Prospective tenants must be made fully aware of this provision and should be given every opportunity to completely inspect both the interior and exterior of a rental property prior to entering into a rental agreement so that there is no future misunderstanding concerning his/her obligation and the department's position under this provision.

There may be instances when emergency repairs and maintenance are required and the department determines that it is cost effective to complete the work needed. In these cases the department's procurement policies as reflected in [Section 5.06-8](#) must be followed in obtaining any goods or services needed for this repair or maintenance.

#### 5.06-7 RECORDS AND REPORTS

"Project Inventory of Improvements", ([Exhibit 5.02-2A](#)), must be maintained by the district. The form provides a current inventory of all improvements to be acquired, managed and disposed of, as well as a complete tabulation of all rental units, improved and unimproved, on a project basis. The form must be initiated prior to commencing negotiations for the acquisition of right of way for the particular project. Data relative to the owner retention, acquisition, management and disposition of the improvements must be entered as the information becomes available.

#### 5.06-8 INCIDENTAL EXPENSES-PROPERTY MANAGEMENT

Some property management expenditures may be necessary until such time as the acquired right of way improvements thereon are utilized for highway construction purposes. The following procedures should be followed for the purchase of services or materials in order to maintain such right of way or repair or maintain any acquired improvements so as not to become a hazard to the health and safety of the community:

- The form of contract used for all property management contracts shall be developed from the department's contract generator. A written contract is required for property management expenditures of \$5,000 or more.



- Expenditures will be limited to repairs and maintenance of the right of way and any improvements thereon until such right of way is needed for highway construction or is disposed of as excess property.
- The district engineer may approve incidental property management expenditures up to \$5,000. Expenditures estimated to be in excess of \$5,000 must be approved by the Central Bureau of Land Acquisition prior to any commitments for purchases or work to be performed. Recommendations for approval of expenditures in excess of \$5,000 shall be in writing with sufficient documentation of the circumstances and necessity for the proposed expenditures.
- The district engineer may approve, without specific authorization, expenditures for the demolition of improvements located on the right of way up to \$10,000 subject to compliance with the procedures. This subject is discussed in more detail in [Section 5.08](#).
- Where a property management expenditure, other than demolition, of up to \$10,000 is involved, while the Illinois Procurement Code does not require the solicitation of competitive bidding, every effort should be made to obtain the highest quality of material and services at the least cost. Where an expenditure is less than \$5,000, at least three informal bid quotes must be obtained. Where an expenditure of more than \$5,000 but not exceeding \$10,000 is involved, the work must be advertised in the local and state newspapers and sealed bids obtained based on standard acceptable specifications that must be provided to each bidder. Solicitations should comply with the requirements set forth in [Exhibit 5.04-3](#) which will assure compliance with the Americans with Disabilities Act. At least 14 days must elapse between the initial advertisement and the bid opening. These types of expenditures of \$5,000 or more must be reduced to writing in the form of the department's contract generator and submitted to the Central Office for review and filing with the Illinois Office of Comptroller no later than 15 days from the date it is accepted or executed by the department.
- Where a property management expenditure, other than demolition, will exceed \$10,000, the work must be bid in accordance with the Illinois Department of Central Management Services' Procurement and Contract Provisions. (44 Illinois Administrative Code) The invitation for bids for these contracts must be published on the Internet in the Illinois Procurement Bulletin. After publication in this bulletin, direct bid solicitation can occur. Advertising in both the state newspaper and local newspaper is required. This process must be closely coordinated with the department's Office of Finance and Administration's Bureau of Accounting and Auditing and the Central Bureau of Land Acquisition.
- Bidding for repairs or services will not be required:
  - Where the goods or services to be procured are economically procurable from only one source.
  - In emergencies involving public health, public safety, or where immediate expenditure is necessary for repairs to state property in order to protect against further loss of or damage to state property. Where funds exceeding \$10,000 are expended in an emergency by purchase, contract or otherwise, however, the person or persons authorizing the expenditure must file an affidavit with the Auditor General of the State of Illinois within 10 days after the purchase or contract setting forth: the amount expended, the name of the vendor or

contractor involved, and the conditions and circumstances requiring the emergency purchase. Where only an estimate of the cost is available within 10 days after the purchase or contract, the actual cost must be reported immediately after it is determined. A form of emergency affidavit is shown as [Exhibit 5.06-8](#). (Emergency contracts shall also comply with 44 Illinois Administrative Code 660.120.)

- A district shall maintain, to the extent possible, a prospective bidder's list of qualified contractors for such goods and services as may be required for the repair and maintenance of property under management as set forth herein. Certified disadvantaged business enterprises should be encouraged to participate in property management contracting services and should be requested to submit a listing of goods or services they can provide.
- Contracts for services and/or materials required in connection with the management of property must be executed as two party agreements on the department's contract generator form and submitted by the district to the Central Bureau of Land Acquisition along with verification that the work has been satisfactorily completed and the material, if any, required by the contract and used therein is acceptable. Where such contracts exceed the sum of \$5,000 or fees of vendors providing miscellaneous repetitive services exceed \$5,000 in the aggregate for a twelve-month period the contracts must be submitted to the Central Bureau of Land Acquisition within fifteen (15) days of execution.
- State statutes require the compliance of any party, corporation, partnership or other business entity conducting business through a contract with the state of Illinois or any of its divisions, with the regulations as shown in the department's contract generator. These requirements must be complied with prior to commencement of the project and must be verified prior to payment for services.
- The Prevailing Wage Act (820 ILCS 130/0.01 et seq.) applies to services obtained in conjunction with work done on property that the department manages until it is needed for construction. The Illinois Procurement Code (30 ILCS 500/25-60) gives the department an exception to complying with the Prevailing Wage Act for services that cost under \$2,000 or are under \$200 per month. If incidental expenses involved with property management include the payment of wages and the services obtained will be \$2,000 or more, wages paid for these services must be based on the Prevailing Wage for the area in which the work is done.

A vendor's invoice covering costs incidental to property management shall be prepared and processed in accordance with [Section 7.03](#). A copy of the contract must be attached to the invoice.

The cost of managing such right of way is eligible for federal participation and reimbursement in the same ratio and in the same manner as any other project cost when accomplished in accordance with approved procedures.

## **5.07 PUBLIC SALE OF BUILDINGS AND IMPROVEMENTS - GENERAL**

Prior to a public sale of improvements, the district must submit to the Central Bureau of Land Acquisition the original and one (1) copy of the "Order and Approval to Dispose of Excess State Property" ([Exhibit 5.07-A](#)); and one (1) right of way plan sheet with the subject improvements outlined or shaded in color to indicate its location. It is also required that this submittal state whether federal funding was involved in the purchase.



The "Order" is reviewed by the Central Bureau of Land Acquisition and transmitted through the Director of Highways to the Secretary of Transportation for his/her signature and the Governor's approval. Simultaneously, the Central Bureau of Land Acquisition will also prepare the original bill(s) of sale in the format shown as [Exhibit 5.07-B](#) (Buildings) or [Exhibit 5.07-C](#) (Goods and Chattels) as appropriate. The original bill(s) of sale will then be initially executed by the Central Bureau Land Acquisition Engineer, and forwarded together with one copy of the fully executed "Order" to the district. Upon receipt of the partially executed bill(s) of sale and "Order," the district may proceed with advertisement and sale. The preceding information shall be entered on the Improvement Screen in LAS.

#### 5.07-1 ADVERTISING AND NOTICE TO BIDDERS

To insure that a sale is public, the sale must be advertised by placing a notice in a local newspaper of general circulation. This notice shall be published at least once each week for two consecutive weeks with the sale to be held at least 14 days after the date of the first publication of the notice. This notice needs to include the requirements contained in [Exhibit 5.04-3](#).

The department is now making these sale notices available on the department's Internet site located at: <http://www.dot.state.il.us/>. This is the only other advertising that will be placed. When the ad is sent to the newspaper(s) in the local area, also e-mail a copy of the notice to the central office property manager who will place it on the department Internet servers.

As a minimum, newspaper advertisements shall contain the following provisions:

- Description and location of improvements to be sold
- The dates and times the improvements will be open for inspection
- The location of the sale and the date and time when sealed bids will be opened or oral bidding will commence
- The following provisions relative to prevailing wages on non-discrimination:
  - "It will be required that all persons employed by the successful bidder, or by any contractor engaged by the successful bidder, to remove any improvements from state right of way, will be paid not less than the general prevailing rate of hourly wages as determined by the Department of Transportation of the state of Illinois."
  - "The state of Illinois, Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252) and the Regulation of the Department of Transportation 49CFR, Part 21, hereby notifies all bidders that it will affirmatively insure that the acceptance of any bid pursuant to this advertisement will be without discrimination on the grounds of race, color, sex, or national origin."
- The following provisions relate to permit requirements for moving buildings or goods and chattels which may require a permit, on or across state highways:
  - Permits will be required for moving on state highways.
  - A moving permit is not guaranteed as a condition of the sale and prospective bidders should determine in advance of the sale that a permit would be issued.

- Whom to contact for issuance of a permit
- Compliance with Americans with Disabilities Act ([Exhibit 5.04-3](#))

The "Notice to Bidders and Bidders Proposal", [Exhibit 5.07-1](#), should also be prepared for distribution to prospective bidders by inserting the required information concerning the proposed sale.

The district shall also advise the Central Bureau of Land Acquisition of the date, time and location of the proposed sale.

PLEASE NOTE THAT NEITHER ILLINOIS DEPARTMENT OF TRANSPORTATION EMPLOYEES NOR FAMILY MEMBERS LIVING WITHIN THE SAME HOUSEHOLD MAY BID ON PROPERTY, EITHER REAL OR PERSONAL, OFFERED BY THE STATE AT PUBLIC AUCTION.

#### 5.07-2 BIDDERS PROPOSALS AND PERFORMANCE DEPOSITS

**Sealed Bids** - Each bid, in order to be qualified, must be for not less than the current appraised value as approved by the Governor and as shown on the "Order and Approval", and submitted on the "Notice to Bidders and Bidders Proposal" form ([Exhibit 5.07-1](#)), accompanied by a bank draft, cashier's check, certified check, or money order as a performance deposit made payable to the TREASURER - STATE OF ILLINOIS.

**Auction Bids** - It is advisable to obtain a register of the names and addresses of all prospective bidders before commencing the auction. The successful bid must not be for less than the established current appraised value as approved by the Governor and as shown on the "Order." At the conclusion of bidding, the potential purchaser shall complete and execute the "Bidders Proposal" portion of the "Notice to Bidders Proposal" ([Exhibit 5.07-1](#)) and submit with a bank draft, cashier's check, certified check, or money order the required performance deposit, made payable to the Treasurer of the State of Illinois.

All bidders must be fully informed of the required performance deposit and that the department reserves the right to retain such deposit as liquidated damages in the event the successful bidder refuses to complete the transaction or the removal of buildings. Performance deposits should be no less than 10% of the sale price. However, since the sale price is indeterminate until after the bids are received, there is usually some delay and inconvenience in obtaining the deposit. Therefore, in the alternative of requiring a percentage deposit based on the high bid, the following guidelines may be used in establishing a fixed deposit amount based on the appraised value of the item being sold. This procedure will then permit prospective bidders to come to a sale with the fixed deposit in hand:

<u>Current Appraised Value</u>	<u>Minimum Fixed Deposit</u>
\$1000 or less	50% of appraised value,
\$1001-\$2500	\$500
\$2501-\$5000	\$1000
\$5001-\$10,000	\$1500
\$10,001-\$20,000	\$2000
Over \$20,000	10% of appraised value

The above-suggested fixed deposits are considered to be reasonable minimums; however, they may be increased at the discretion of the district engineer. Deposits should be rounded up to even dollar amounts for convenience.

The deposit checks of successful bidders are not considered to be accounts receivable to the state and are retained by the district until the improvements are satisfactorily removed in accordance with the proposal. The deposit checks of the unsuccessful bidders under the sealed bid procedure shall be returned to them as soon as the sale to the successful bidder has been finalized by issuance of a validated bill of sale.

#### 5.07-3 ACCOUNTING FOR PUBLIC SALE PROCEEDS

Immediately following the sale, the district shall prepare an "Accounts Receivable Invoice" (Form AA 644) in accordance with the procedures outlined in [Section 7.04-5](#), reflecting the purchase price of the items sold and payment due the state.

After payment has been made by the successful bidder, the district shall prepare an "Accounts Receivable Remittance Statement" (Form AA 646) in accordance with the procedures outlined in [Section 7.04-5](#).

#### 5.07-4 BILL OF SALE VALIDATION

The bill of sale (original) previously forwarded to the district, in order to be valid, must be completed by the district by filling in the name of successful bidder and amount of bid, and then co-executed and dated by the district engineer. The original copy of the bill of sale must be validated and issued to the successful bidder within ten (10) days following the date of opening of bids or auction, subject to receipt from the successful bidder of a bank draft, cashier's check, certified check or money order in the full amount of the bid, made payable to the TREASURER-STATE OF ILLINOIS. Personal checks shall not be accepted for the full sale price under any circumstances. One copy of the validated bill of sale shall be returned to the Central Bureau of Land Acquisition and a copy retained in the district file.

Once the full sale price has been received and the validated bill of sale is issued to the successful bidder, a sale shall be considered final and a successful bidder shall not be entitled to any refund of either the performance deposit or the sale amount, except that upon satisfactory removal of the building in accordance with the removal agreement the performance deposit will then be returned to the purchaser.

#### 5.07-5 REPORTING SALE TO CENTRAL BUREAU OF LAND ACQUISITION

Within five (5) working days after a sale has been finalized the district shall prepare and submit a report of the sale to the Central Bureau of Land Acquisition listing (1) the names of the bidders and, in the case of sealed bids, their respective bids for each building or goods and chattels offered for sale; (2) the name of the successful bidder together with a copy of the successful bidder's proposal; and (3) a copy of the validated bill of sale for each building or goods and chattels.

After issuance of the validated bills of sale to the successful bidders, the district shall maintain surveillance to ensure that all conditions of the sales contract are met. If all the said conditions are met, the performance deposit will be returned to the successful bidder and the file documented accordingly.

## SALE OF RESIDENTIAL IMPROVEMENTS - LEAD-BASED PAINT HAZARDS

The Illinois Department of Transportation is required to inform all potential purchasers of residential buildings of any known lead-based paint hazards. This requirement directs that potential residential purchasers be fully cognizant of the hazards posed by lead-based paint and acknowledge this awareness in writing prior to the public sale.

[Exhibit 5.07-6](#) is provided in order to disclose any known lead-based paint hazards to potential purchasers. The completion of this form is required prior to the public sale of any residential buildings. A copy of a pamphlet entitled "Protect Your Family from Lead in Your House" will also need to be provided to all potential residential purchasers.

### 5.08

## PRELIMINARY ASBESTOS SURVEYS AND DEMOLITION OF BUILDINGS – GENERAL

Prior to the demolition of any improvements acquired by the department, an asbestos inspection is required in order to determine the likely presence of friable or non-friable asbestos. Department personnel are authorized to make preliminary asbestos abatement surveys of residential improvements and other improvements incidental to the residence. Departmental personnel are not expected to touch or witness the disturbance of or assist with taking samples of known or suspected asbestos containing materials.

Inspections of all other types of improvements shall be conducted by a person licensed under Illinois law to conduct such inspections. To avoid any confusion in this area, each district should have at least one employee obtain the license required to perform asbestos inspections. As an alternative, the districts can obtain the services of a licensed asbestos inspector as an "as needed" basis. These services can be paid for as an incidental expense charged to the right of way project, if the accumulative compensation paid to any one individual does not exceed \$5,000 in a fiscal year.

The person/entity hired to do asbestos inspection cannot be affiliated with the department's statewide consultant responsible for the asbestos testing and abatement process.

In either case, the "Procedure for Conducting Asbestos Abatement Survey" ([Section 10.02-4](#)) is to be followed once the preliminary asbestos abatement survey is completed.

Where conditions or circumstances do not permit owner retention, public sale or rental of acquired buildings, demolition by contract, as found in the department's contract generator, may be utilized to remove them from the right of way. The urgency for completing the removal of buildings and the estimated cost will usually determine the correct procedure to be followed. The procedures for demolition contracting are discussed in detail in the succeeding sections.

### 5.08-1

## ADDITION TO HIGHWAY CONSTRUCTION CONTRACT

Acquired buildings that are in poor condition or location, or fail to sell at public sale, may be added to the proposed highway improvement construction plans as an item for removal by the construction contractor. This is usually the most economical and desirable method when the proposed highway construction contract letting is imminent. However, this method should not be used indiscriminately as an alternative to the public sale method of disposal.

It is also advisable, where buildings are being offered for public sale just prior to a construction letting, to include the buildings in the construction plans to cover the eventuality of any buildings failing to be sold.

In order to assure that building removal is included in the construction plans, district land acquisition must provide the necessary details to their plan preparation staff. Generally such details would include the presence of asbestos, the type of structure, location by highway stationing or street address, and any special provisions which may be required concerning the disposition of utility connections or prohibiting the contractor from entering the property until vacated.

#### 5.08-2 DEMOLITION CONTRACT - UNDER \$10,000

When a proposed highway construction contract letting is not imminent and the cost of demolition of a building or group of buildings will not exceed \$10,000 it is permissible for the districts to obtain bids based on standard specifications acceptable to the district for a demolition contract. Where demolition and site clearance is contemplated for one or more buildings located within the same project limits, and the aggregate total of contract costs for such work will exceed \$10,000, it will be necessary to follow the demolition procedures set out in [Section 5.08-3](#) or [5.08-4](#) as applicable.

District land acquisition must obtain bids for demolition of any buildings and clearance of the sites. In order to obtain these bids, it is necessary to advertise in the state newspaper at least one time 14 days in advance of bid selection. Advertising in local papers should also be placed as the situation warrants. The successful responsible bidder should complete the appropriate sections of the contract and return it to the district for completion and signature by the district engineer who awards the contract. A copy of this contract is then forwarded to the Central Bureau of Land Acquisition for record keeping and accounting functions.

#### 5.08-3 DEMOLITION CONTRACT - OVER \$10,000 AND UNDER \$30,000

Where the cost of demolition of a building or group of buildings and site clearance will exceed \$10,000, the plans, specifications and contract must be prepared and advertised as described in [Section 5.08-2](#).

The successful bidder should complete the appropriate sections of the contract and return it to the district for completion and signature by the district engineer. The district engineer should not date this contract.

This signed, but undated contract is then forwarded to the Central Bureau of Land Acquisition where it is reviewed for accuracy and forwarded to the Central Bureau of Highways Administration. The Bureau of Highways Administration will obtain concurrence of the Director of Highways and the Secretary of the Department of Transportation as well as providing all necessary information to the Comptroller's Office. A fully executed, and dated, contract will then be returned to the district for issuance to the successful bidder.

#### 5.08-4 DEMOLITION CONTRACT - OVER \$30,000

Where the cost of demolition of a building, or group of buildings and site clearance will exceed \$30,000, the plans, specifications and other necessary information should be prepared and forwarded for preparation and bid letting. Contracts for \$30,000 or more must be done in consultation with, and under the auspices of your plan preparation personnel and the Bureau of Design and Environment.

Procedures set out in the Illinois Procurement Code specify that construction related contracts exceeding \$30,000 be competitively bid and posted in the department's

Transportation Bulletin, which is to be prepared and published by the Bureau of Design and Environment.

## 5.08-5 DOCUMENTATION REQUIREMENTS

As soon as it is determined that disposal of improvements will be by demolition, the appropriate entry shall be made in the "disposal method" field on the improvement screen of the LAS. The "authorized demolition date," "contract amount," and "removal date" fields on the improvement screen are to be completed as they occur.

## 5.09 MANAGEMENT OF NON-OPERATING RIGHT OF WAY (NORWAY) AND DISPOSAL OF EXCESS LAND OR RIGHTS IN LAND NO LONGER NEEDED FOR STATE HIGHWAY PURPOSES - GENERAL

605 ILCS 5/4-508(a) states the following: "Except provided in paragraphs (c) and (d) of this Section, and subject to the written approval of the Governor, the Department may dispose of, by public sale, at auction or by sealed bids, any land, rights of other properties, real or personal, acquired for but no longer needed for highway purposes or remnants acquired under the provision of Section 4/501, provided that no such sale may be made for less than the fair market value of such land, rights, or property."

The purpose of this section of the manual is to establish a system to inventory highway right of way that may now, or sometime in the future, meet the verbiage in 605 ILCS 5/4-508 (a) through (e). District land acquisition personnel are responsible for the creation and management of this inventory of land parcels which are not considered to be part of any operating highway right of way until disposed of under the provisions of 605 ILCS 508 (a) through (e), by transfer of jurisdiction to another state agency, or by legislative release.

The following definitions shall be used when determining the status of right of way parcels not considered a part of the operating highway system.

"Excess Land" - Land or rights in land, improved or unimproved, no longer needed for state highway purposes whether originally acquired for state highway purposes or acquired as remnants incidental to acquiring land for state highway purposes, under the provision of 605 ILCS 5/4-501.

"Non-Operating Highway Right-of-Way (NORWAY)" - Department properties that are not devoted as public ways for vehicular travel and areas, structures, and facilities for support of the public ways; but have not been declared as unnecessary for highway maintenance or future expansion of highway right of way.

Those parcels of land or rights in land immediately available for disposal are to be listed in the Land Acquisition System (LAS) under the appropriate method of disposal and disposed of accordingly. Non-Operating Highway Right-of-Way (NORWAY) parcels not yet available for disposal will be listed and managed on the NORWAY inventory. The categories (type code) determining the inclusion of a parcel of land on the NORWAY inventory are:

Route Relocation	RR
Uneconomic Remnant/Remainder	UR
Abandoned Rest Area	ABRA
Abandoned Project	ABP
Landlocked Parcel	LL



There may be circumstances when the department has acquired or will acquire right of way for purposes that do not appear to be for the specific use of the operating highway. While it may appear that these parcels fall outside the usual limits of the operating right of way, there were specific roadway purposes why this right of way was acquired or why it would not be considered eligible for disposal. Right of way that has been acquired under the following situations will not be considered excess land or non-operating highway right of way and will not be available for disposal.

Access  
Drainage  
Safety  
Other engineering reasons as determined by the District Engineer on a parcel by parcel basis

Sometimes the right of way listed on the NORWAY inventory can be leased/rented before it is used for its original purpose. See [Section 5.06-1](#) for details. Any leased/rented parcels of right of way will be shown in the Land Acquisition System (LAS) under rentals.

The status of land or rights in land listed on the NORWAY inventory is subject to an annual review by district land acquisition personnel. Should there be a change at any time in the status of any parcel, the land or rights in land should be documented and the appropriate action taken. If the parcel can be considered excess land, it should be entered in the Land Acquisition System (LAS) and disposed of in the appropriate manner.

The management of land or rights in land outside the operating highway right of way is a three-step process.

STEP I is the process of entering parcel data into the NORWAY inventory that fit the seven (7) categories established above.

STEP II is a preliminary, informational and informal determination by the district that land or rights in land may no longer be needed for state highway purposes. The land or rights in land will be reviewed by district land acquisition personnel and in the various engineering bureaus. Should there be any engineering reasons for retention of the land or rights in land, the parcel will be retained on the NORWAY inventory and documented appropriately. The district land acquisition personnel will notify the inquiring person or agency of the non-availability for disposal of any land or rights in land. If a parcel becomes available for disposal, it moves on to STEP III.

STEP III is a detailed formal determination that a defined parcel of land, or rights in land are no longer needed for state highway purposes now or in the foreseeable future. The STEP III process is described in [Section 5.09-4](#), Initiation of Disposals. All STEP III parcels of land or rights in land are hereinafter referred to as "excess land". No formal declaration of excess land or rights in land is valid until the Director of Highways has concurred with the decision. Those parcels of land or rights in land no longer needed for state highway purposes and ready for disposal will be entered into the Land Acquisition System (LAS) once they have been given an official excess land number. The parcel's progress can then be tracked through the disposal process via LAS. This advancement to LAS will be documented in NORWAY's Remarks section. Once the parcel has been disposed in the appropriate manner, it will be so noted in NORWAY and removed from the active NORWAY database.

In addition to the above, operating right of way no longer needed for state highway purposes can be conveyed to another highway authority as part of the Jurisdictional Transfer process. This type of conveyance/disposal is allowed under 605 ILCS 5/4-508(d) and is explained in detail in [Section 5.11](#).

#### 5.09-1

#### INVENTORY AND MANAGEMENT

District land acquisition personnel are responsible for the inventory and management of land parcels which are not considered to be part of the operating state highway right of way until disposed of under the provisions of 605 ILCS 508 (a) through (e), by transfer of jurisdiction to another state agency, or by legislative release. This inventory should be done via data entry into the NORWAY database.

Inventory – As STEP I determinations are made, including remnants as they are acquired, fee-owned land parcels should be inventoried by entering all known parcel data into the NORWAY database (See [Exhibits 5.09-1 and 5.09-1A](#)). The NORWAY database will provide a basic inventory to which additional parcel data may be added as it becomes available.

If a parcel is immediately eligible for disposal, an excess land number will be assigned and the parcel included in the Land Acquisition System (LAS).

The provisions of [Section 5.06](#), Management of Acquired Property, apply to avoid the occurrence of public nuisance, hazardous or unhealthy conditions on the department's property.

#### 5.09-2

#### POLICY ON DISPOSAL OF EXCESS LAND

It is the policy of the department that declared excess land, or rights in land, shall be disposed of for no less than its fair appraised value as required by the Highway Code (605 ILCS 5/4-508(a), (b), (c)), subject to a minimum nominal value of \$300, except for the release of easements or access rights to its original donors or heirs of said donors, from whom no payment shall be required. Payment of the fair appraised value is not required for transfers or conveyances under 605 ILCS 5/4-508(d) and (e). However, if the property being disposed of was acquired with federal funds then disposal of that property for less than the current fair market value will require FHWA approval unless the property will be used as follows:

- Use by public utilities in accordance with 23 CFR part 645
- Use by Railroads in accordance with 23 CFR part 646
- Use for Bikeways and pedestrian walkways in accordance with 23 CFR part 652
- Use for transportation projects eligible for assistance under title 23 of the United States Code

Any disposal authorized by the FHWA for this “public use” at less than fair appraised value will require a reversionary clause in the deed for failure to comply with the public use and ownership provisions.



FHWA approval will also be required if a disposal involves land or rights acquired in connection with the interstate system. For disposals involving the interstate system the department is required to evaluate the environmental effects of the disposal. FHWA approval of the environmental effects can be obtained at the coordination meeting and in most cases will be considered categorical exclusions. The disposal statement ([Exhibit 5.09.4A](#)) must indicate that this environmental evaluation has been conducted if needed.

The marketability of excess land is dependent upon several variables, i.e., size, shape, accessibility, location, demand and whether the state's ownership is in fee simple or no more than the rights of access or easement for state highway purposes.

There is little demand for small, irregular shaped inaccessible parcels of fee-owned excess land in rural areas where the fair appraised value may be less than the cost of advertising and conducting a public sale. To initiate such disposals with no assurance of potential bidders is not a prudent expenditure of department resources.

On the other hand, the more desirable fee-owned excess land parcels having appraised values at least exceeding expected sale costs should be offered for disposal, preferably within five (5) years from the date on which construction is completed on an adjacent highway project; or a planned highway project for which such land was acquired is abandoned or relocated; or an existing highway for which such land was used is abandoned and is no longer used for state highway purposes.

Where the state owns rights of access or easements, the initiation of disposals is primarily dependent upon individual requests of interested parties, generally the party owning fee simple title to adjacent land or the land encumbered by the rights of the state.

Because the release or extinguishments of such rights requires an act of the legislature, it is the policy of the department that the party seeking the release of such rights must agree to deposit the full amount of the fair appraised value before the department will initiate the necessary legislation in the Illinois General Assembly.

### 5.09-3 METHODS OF DISPOSAL - GENERAL

The disposal of any declared excess land or rights may be accomplished by one of several methods, each of which is described briefly below and in greater detail in succeeding paragraphs.

**By Sale to Former Owner** - 605 ILCS 5/4-508(c), except for conveyances under Public Act 90-755, requires that before making any disposition of property no longer needed for state highway purposes, the department shall first offer in writing that property to the person from whom such property was acquired at the current appraised value of the property, providing the person from whom such property was acquired still owns and has continually owned land abutting such property since the acquisition by the department. If the offer is not accepted in writing within 60 days, all rights under this paragraph shall terminate. (For detailed instructions see [Section 5.09-5.](#))

**By Public Sale** - After consideration of the above "Sale to Former Owner" method, subject to the written approval of the Governor, 605 ILCS 5/4-508(a) permits the department to dispose of by public sale, at auction or by sealed bids, any land, rights of other properties, real or personal, acquired for but not longer needed for state highway purposes or remnants acquired

under the provisions of Section 4-501 of said code. However, a sale may not be made for less than the current fair appraised value of such land, rights or property. PLEASE NOTE THAT NEITHER ILLINOIS DEPARTMENT OF TRANSPORTATION EMPLOYEES NOR FAMILY MEMBERS LIVING WITHIN THE SAME HOUSEHOLD MAY BID ON PROPERTY, EITHER REAL OR PERSONAL, OFFERED BY THE STATE AT PUBLIC AUCTION. (For detailed procedures see [Section 5.09-6.](#))

By Exchange - After consideration of the above "sale to the former owner" method, subject to the written approval of the Governor, 605 ILCS 5/4-508(b) provides for the exchange of land, rights or property no longer needed for state highway purposes or remnants acquired under the provisions of Section 4-501 of said code, for equivalent interests in land, rights or property needed for state highway purposes. Cash may be paid or received for the difference in value, if such interests are not of equivalent value. (For detailed instructions see [Section 5.09-7.](#))

By Interdepartmental Transfer - Subject to the written approval of the Governor, 20 ILCS 2705/49.12 provides for the transfer of jurisdiction of any realty under the control of the department to any other department of the state government, or to any authority, commission or other agency of the state. (For detailed instructions see [Section 5.09-8.](#))

By Legislative Action - Prior to enactment of legislation authorizing the department to acquire fee title to land, the department, in substantially all cases, acquired a dedication of right of way for highway purposes. This is an easement, and because it is dedicated to the People of the State of Illinois, only the Illinois General Assembly can act in behalf of the people to extinguish or release such easements to the land. Therefore, easements for highway purposes are not considered to be subject to "sale" but can only be extinguished or released through legislative action. Furthermore, the acquisition of access rights is also considered an acquisition of an easement and, if no longer needed, the right of access must also be restored by legislative action. (For detailed instructions see [Section 5.09-9.](#))

By Conveyance to another Governmental Agency or not-for-profit organization - There will be times when the department is required to acquire land or interest in land in order to mitigate specific environmental concerns caused by highway construction. The most common example of this type of acquisition is wetland replacement. There may also be instances when land and other property acquired for state highway purposes must be managed or preserved in a manner specified in certain state and federal laws or regulations. Examples of this type of acquisition may involve a dwelling which has historical significance or a historic bridge. Although not technically considered excess land as previously referred to in this chapter, these properties can be disposed of to other entities which can manage the property as mandated by law. The property acquired in these instances is not essential to completing the highway improvement. In most cases, there are other entities better equipped to manage these properties than the department.

605 ILCS 5/4-508(e) authorizes the department, subject to the written approval of the Governor, and after consideration of the above "sale to the former owner" method, to convey the title or interest in the land, right, or other property to another governmental agency, or not-for-profit organization. This conveyance is also subject to concurrence in the conveyance by the grantee. This type of conveyance can only involve land, right, or other property being disposed of in compliance with subdivision (f)(3) of Section 6 of Title I of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460 1-8(f)(3)), the Historic Bridge Program established under Title 23, United States Code, Section 144 subsection (o)(23 U.S.C. 144(o)), the National Historic Preservation Act (16 U.S.C. Sec. 470), the Interagency Wetland Policy Act of 1989, or the Illinois State Agency Historic Resources Preservation Act. The governmental agency or not-for-profit organization accepting the conveyance must agree to use the property

for purposes consistent with the appropriate law. The department may retain rights to protect the public interest. (For detailed instructions see [Section 5.09-10](#).)

By Conveyance to another Highway Authority - 605 ILCS 5/4-508(d) authorizes the department to convey any land, dedications, easements, access rights, or any interest in real estate that it holds, to another highway authority. This conveyance can occur only if the department enters into or currently has a written contract with the highway authority that is accepting or has accepted the transfer of jurisdiction of the highway that is directly associated with the land being conveyed. The contract for this transfer of jurisdiction between the department and the other highway authority must specifically address an agreement between both parties related to the conveyance of the land or real estate interest associated with the transfer of jurisdiction of that specific highway. In those cases where the jurisdiction has occurred prior to the enactment of the above-mentioned statute, an agreement addressing the conveyance must be obtained from the highway authority which has accepted jurisdiction. (For detailed instructions, see [Section 5.11](#).)

#### 5.09-4 INITIATION OF DISPOSALS

In proceeding towards a disposal of any potential excess land or rights in land by any of the above mentioned methods it is necessary that a complete evaluation of the proposed disposal be made within the department in order to determine (1) whether or not a proposed disposal will adversely affect the existing operating facilities of the department, (2) whether or not the land or rights will be needed for state highway purposes for some future improvement or construction of a highway facility, and (3) any adverse effects of the proposed disposal with regard to the Highway Beautification Act of 1965.

At the time the proposed disposal is initiated, the district land acquisition staff should determine whether or not it is necessary to comply with 605 ILCS 5/4-508(c).

The district land acquisition staff is responsible for the initial preparation and submittal of a preliminary report to the appropriate district bureaus for review and concurrence. The district engineer, at his/her discretion, shall require review and concurrence by those district bureaus whose operations may be affected by the proposed disposal.

After obtaining concurrence from within the district, the district engineer will recommend to the Central Bureau of Land Acquisition that the real estate is no longer needed for state highway purposes and should be disposed of or transferred by the method specified. The Central Bureau of Land Acquisition will obtain the final approval for the disposal from the Director of Highways.

The following information and material, in duplicate, (unless otherwise specified) must accompany the district engineer's recommendation for approval to dispose of the parcel of excess land or other rights. Three copies are required when federal approval is needed. Federal approvals are necessary only in those cases where the disposal is on the National Highway System and there was federal participation in the original acquisition.

Note: The district may, in appropriate cases, require a prospective purchaser to furnish the plat and legal for the parcel being requested. Although this is acceptable, all requirements pertaining to plat and legal preparation must be followed.

- The "Statement for Disposal of Excess Land or Rights" in the form shown in [Exhibit 5.09-4A](#) in accordance with Line Item Instructions in [Exhibit 5.09-4B](#) - The respective district bureau chiefs and the district land acquisition engineer, shall indicate their concurrence by executing the statement together with the district engineer, recommending the approval of the Director of Highways. When conveying operating

right of way to another highway authority under 605 ILCS 5/4-508(d) only the modified form of a Disposal Statement will be required. ([Exhibit 5.09-4D](#))

- The "Legal Description Master Copy" should be prepared on the form provided as [Exhibit 5.09-4C](#) and transmitted to the Central Bureau of Land Acquisition by way of the department's word processing network. The accuracy of the final typed legal description on the document of conveyance or in an act of the legislature is of utmost importance. Seemingly minor errors can cause additional administrative time and expense in having to obtain corrected deeds or amendments through the legislature to correct erroneous legal descriptions. Therefore, to minimize the possibility of errors it is extremely important that the legal description as submitted to the Central Bureau of Land Acquisition be accurate. Additional detailed information on this subject may be found in [Section 1.06](#).
- The right of way plat must show the parcel or parcels of excess land to be conveyed or disposed of, either shaded or hatched, the federal-aid project number, parcel number, north arrow, area of parcel, and sufficient lines, dimensions, angles, bearings, etc., so that the parcel can be laid out on the ground. The plat shall also show all property lines as well as illustrating and labeling existing, and if to be revised, the proposed right of way and/or access control lines. Any improvements existing on the parcel should also be shown. **(NOTE: Three copies of the plat are required for legislative releases.)** Additional detailed information on this subject may be found in [Section 1.05](#).
- The construction plan sheet, clearly illustrating and labeling the existing, and if to be revised, the proposed right of way and/or access control lines as necessary. The plans should be complete and include the parcel number, north arrow, and the parcel(s) in question should be shaded or hatched in order that it be clearly identifiable. If frontage road relinquishment is involved at or near an interchange, a plan showing the entire interchange layout is required.
- One or more appraisals must be prepared. Appraisals for the legislative release of easements and/or access rights shall be based upon the valuation guidelines set out in [Section 2.02](#). Regardless of the estimated value, two appraisals may sometimes be desirable when the appraisal technique is of a complicated nature, or an additional appraisal may be requested by CBLA. The appraisal reports are to be reviewed by the district reviewing appraiser and then submitted to CBLA for approval, with a statement that the accepted or documented appraisal indicates the current appraised value of the subject property. Additionally, when the recommended disposal is to be by an exchange transaction, a statement must also be made that the interests to be exchanged are equivalent (i.e., fee for fee, easement for easement, etc.) and that the values of the interests being exchanged, if not equal, are equivalent with either the payment or the receipt of an amount of money for the difference in values. Appraisals are not required when the method of disposal is to be by interdepartmental transfer. The department has interpreted Illinois law to allow us to make an exchange for an interest in land that is greater than that interest we are giving up (i.e. we can exchange a dedication owned by the department for the fee simple title to land needed for state highway purposes). No appraisal is necessary for land or interest in land conveyed in accordance with 605 ILCS 5/4-508(d) or (e).
- The district must provide the Central Bureau of Land Acquisition with one copy of the executed conveyance documents, or the Petition for Condemnation and Final Judgment Order, by which the department acquired title to the excess land or rights, including a copy of the original right of way plan depicting the excess parcel thereon in relation to the total parcel acquired where the excess parcel is part of a larger parcel. When

conveying property to another highway authority under 605 ILCS 5/4-508(d) these documents are not required if it is clearly shown that the property being conveyed falls within the right of way limits of the highway being transferred.

- The district must provide the Central Bureau of Land Acquisition with one copy of the title insurance policy obtained at the time of acquisition of the excess parcel. Any outstanding objections on the title policy which have not been waived by the title company must be reconciled by notation as to whether or not the objections affect the excess parcel and/or what action will be necessary to dispose of the objection. There may also be other interests in the property that are not a matter of record, such as that of a utility occupying a portion of the parcel by a permit issued by the department, or the necessity to reserve the right of an easement over some portion or all of the property to provide access to another property. If it is desirable to preserve some right for a third party, it is preferable the prospective purchaser agree at the time of sale to grant such rights in a separate conveyance between the purchaser and the third party. Title insurance documents are not required when property is conveyed under 605 ILCS 5/4-508(d).
- In an exchange transaction, the district must provide the Central Bureau of Land Acquisition with one copy of the proposed form of conveyance to the state including the legal description, and a plat of the parcel to be acquired, or in the case of an exchange by stipulated settlement in a condemnation proceeding, a copy of the Final Judgment Order either as entered or proposed, detailing the proposed exchange transaction in terms of the total settlement amount, the value of the excess parcel to be credited towards the final settlement, and the difference to be paid or received by the state.
- In those instances where the conveyance is to another highway authority under 605 ILCS 5/4-508(d) the conveyance instrument must recite that the transfer is subject to departmental approval of any future vacation or disposal of the property by the Grantee.
- In order to determine if "the person from whom such property was acquired" is the same person who "still owns and has continuously owned the land abutting such property since the acquisition," it is necessary to re-examine the "person's" ownership at the time of the acquisition, and to confirm such ownership as being continuous since the acquisition to the present time. Therefore, the following must be furnished with the recommendation for sale to a former owner:
  - One copy of the original commitment for title insurance upon which the conveyance of the acquired property was based
  - One copy of the conveyance document, with attached plat
  - One copy of a Certificate of Title showing the present fee ownership and any and all transactions, if any, affecting the ownership of the "abutting" property, from the date of the original commitment for title insurance to the present time. (Required only when disposal to be by sale to a former owner)
- When easements and/or access rights are to be released by legislative action, the district must provide the Central Bureau of Land Acquisition with two copies of the accounts receivable remittance statement documenting the fact that the interested party has deposited the full payment of the appraised value, and an agreement relating to restoration of Access Rights shown as [Exhibit 5.09-9](#), when release of access rights are at issue.



The requirements for processing in the Central Bureau of Land Acquisition and the role of the districts on completing disposals, however, vary somewhat depending upon the method of disposal to be used. The six different methods are discussed in detail in the following paragraphs and in [Section 5.11](#).

#### 5.09-5

#### SALE TO FORMER OWNER METHOD

The statement for disposal submitted with the district's recommendation for disposal must include sufficient detail to assure the criteria required under 605 ILCS 5/4-508(c) have been met in order that the excess parcel may be disposed of by sale to the former owner.

All data is then reviewed by CBLA. When deemed necessary, other central bureaus will also be given an opportunity to review and comment on the recommended disposal. If concurred in, the Central Bureau of Land Acquisition will also request concurrence from the Federal Highway Administration when required.

A quitclaim deed for conveyance of the parcel will be prepared and forwarded to the district along with notification of approvals by the Director of Highways and the Federal Highway Administration advising that the excess parcel may be formally offered in writing to the former owner at the current fair appraised value.

Upon receipt of the approval, the district shall prepare and forward the written offer to the former owner. The written offer must include a statement that if the offer is not accepted in writing within 60 days of the date of the written offer, all rights under the provisions of 605 ILCS 5/4-508(c) shall terminate. The district should include with the written offer a copy of the draft form of conveyance, requesting that if the offer is accepted such form should also be approved in writing by the former owner, or his/her legal counsel if he/she is represented by counsel. Additionally, the written offer should include instructions for furnishing a cash deposit of no less than 20% of the appraised value as earnest money in the form of a certified check, cashier's check, money order or bank draft, together with the written acceptance of the offer. Such deposit shall be retained by the district pending delivery of the deed and closing of the transaction. The former owner must be fully informed in writing that the department reserves the right to retain such deposit as liquidated damages in the event of a refusal by the former owner to complete the transaction.

Upon receipt of the written acceptance of the offer, the required deposit and written approval of the form of conveyance, the district shall forward one copy of each to the Central Bureau of Land Acquisition recommending execution of the deed. The Central Bureau of Land Acquisition will then obtain the execution of the deed in original form by the Secretary of Transportation, attested by the Director of Highways, and the written approval of the Governor. The fully executed deed will then be returned to the district office for delivery and closing of the transaction.

Immediately following delivery of the deed and receipt of payment for the property, the district shall prepare an "Accounts Receivable Remittance Statement" according to the procedures outlined in [Section 7.04-2](#).

In the event the former owner does not accept the department's written offer within the required 60 day time limit, the district should notify the Central Bureau of Land Acquisition of the non-acceptance, requesting authorization to proceed to dispose of the parcel by such other method as may be recommended.

The statement for disposal submitted with the district's recommendation must include sufficient detail to assure that 605 ILCS 5/4-508(c) (see [Section 5.09-5](#), Sale to Former Owner) is not applicable and that the excess parcel may be disposed of by public sale.

All data is then reviewed by CBLA. When appropriate, other central bureaus will also be given the opportunity to review and comment on the recommended disposal. CBLA will also request concurrence from the Federal Highway Administration when required.

A quitclaim deed for conveyance of the parcel will also be prepared and forwarded to the district along with notification of approvals by the Director of Highways and the Federal Highway Administration when applicable, advising that the excess parcel may then be advertised for public sale.

Upon receipt of the same, the district shall prepare a notice directing attention to the proposed sale to be published in a local newspaper of general circulation in the county where the land is located. The first notice must appear at least 14 days prior to the sale. A minimum of 48 hours should be allowed between the last publication and time of sale.

The department is now making these sale notices available on the department's internet site located at: <http://www.dot.state.il.us/>. This is the only other advertising that will be placed. When the ad is sent to the newspaper(s) in the local area, a copy of the notice must be mailed to the CBLA property manager who will place it on the department Internet servers.

The minimum acceptable bid may be inserted in the advertisement at the discretion of the district engineer. It is not necessary the complete legal description of the property be included in the advertisement. However, sufficient information should be included so potential purchasers can locate the excess property to be sold, such as lot, block, and subdivision or street address and city for urban properties, or the section, township, range and county for rural properties. The advertisement should also state a complete legal description will be furnished upon request.

- The following clause must also be inserted in the advertisement: "The State of Illinois, Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252) and the regulations of the Department of Transportation, Chapter 49, C.F.R. (Part 21) issued pursuant to such Act will affirmatively insure the acceptance of any bid pursuant to this notice or advertisement will be without discrimination on the grounds of race, color, sex or national origin."
- Compliance with the Americans with Disability Act is required. See [Exhibit 5.04-3](#).

The district shall also prepare the "Notice to Bidders and Bidder's Proposal", [Exhibit 5.09-6A](#). This form should be reproduced with a sufficient number of copies for distribution to interested buyers between the time of advertising and the sale date and to anyone attending the sale as a prospective bidder. This form is designed so that when more than one parcel is to be offered for sale it is only necessary to attach a separate "Description of Property to be Sold" for each parcel offered. The bidder's proposal portion of the form provides several spaces for inserting individual bids for the respective parcels.

## OPTIONAL PROCEDURE:

There may be occasions when a specific private party may express interest in purchasing a particular parcel of either potential or declared excess land, thus prompting the district to initiate the disposal process on the assumption that the interested party will submit a bid, at least in the amount of the minimum bid required. Therefore, to assure that the interested party is a sincere bidder, the district may offer the opportunity for such party to submit a completed bidder's proposal and required cash deposit in advance of advertising and conducting a public sale of the parcel. As a prerequisite to this procedure, the actual date, time and place of the public sale must be determined and the "Notice to Bidders and Bidder's Proposal" form prepared, with a copy furnished to the interested party prior to accepting his/her bidder's proposal and cash deposit. This procedure will necessarily require the sale to be by public auction in order that the interested party as the initial bidder will have the opportunity to increase his/her bid at such sale.

If a specific parcel appears to have a potential for recreational or open space development, particularly in urban areas, or is located adjacent to or in close proximity to an existing park, recreation or conservation area, a special effort should be made by the district to notify any local park or municipal authority of the pending sale of the parcel.

As provided by the statute, a public sale may be by either the auction method of oral bidding, or by the sealed bidding method. It should be noted that while the sealed bid method may be appropriate in some cases, prospective bidders have only one opportunity to bid on the property. On the other hand the auction method does provide all prospective bidders an equal opportunity to make as many oral bids as they desire until the highest bid is received. Auction bidding must be used when the above described optional bidding procedure is followed. Otherwise, the districts may select the method best suited to accomplish the disposal with maximum return.

Ordinarily, the best place to conduct a public auction is at the site of the property. However, as with the sealed bid method, an auction can be conducted in the district office or any other location believed to be most attractive and/or convenient to prospective bidders. It is advisable in the case of an auction to obtain a register of the names and addresses of all prospective bidders before commencing the auction.

A cash deposit in the form of a certified check, cashier's check, money order or bank draft must be obtained from the high bidder immediately after completion of bidding. It shall be retained by the district pending delivery of the deed and closing of the transaction. All bidders must be fully informed of the required deposit and that the department reserves the right to retain such deposit as liquidated damages in the event the successful bidder refuses to complete the transaction. The deposit should be no less than 10% of the sale price. However, since the sale price is indeterminate until after the bids are received, there is usually some delay and inconvenience in obtaining the deposit. Therefore, in lieu of requiring a percentage deposit based on the high bid, the following guidelines may be used in establishing a fixed deposit amount based on the appraised value of the parcel. This procedure will then permit prospective bidders to come to a sale with the fixed deposit in hand.

Current Appraised Value	Minimum Fixed Deposit
\$1000 or less	50% of appraised value, minimum \$100
\$1001 - \$2500	\$500
\$2501 - \$5000	\$1000
\$5001 - \$10,000	\$1500
\$10,001 - \$20,000	\$2000
Over \$20,000	10% of appraised value



The above suggested fixed deposits are considered to be reasonable minimums, however, they may be increased at the discretion of the district engineer. If the deposit is based on a percentage of the bid, the amount of deposit may be rounded up to even dollar amounts for convenience.

After the sale, the draft form of quitclaim deed, which will have been furnished to the district shall be filled in with the named grantee and the consideration to be paid, and shall be submitted with a report of sale if by auction, or a list of bids, if by sealed bids. Also necessary is a copy of the "Notice to Bidders and Bidder's Proposal" completed by the successful bidder for each parcel, together with a recommendation for the acceptance of the bid. This must be submitted to the Central Bureau of Land Acquisition for review and to obtain execution of said deed. Careful attention should be given to the tenancy under which the bidder proposes to take title and to the completeness and accuracy of the final typed legal description on said deed. In order to avoid any future misunderstanding concerning the transaction, the named grantee(s) and tenancy under which they propose to take title should be exactly the same on the deed as that shown on the bidder's proposal. Furthermore, if bidding is by corporation, limited liability company, limited partnership, partnership or trust, and title is to be conveyed such an entity, an affidavit of disclosure of the ownership interests of such entity must also be obtained and submitted to the Central Bureau of Land Acquisition. ([Exhibit 5.09-6B](#))

After execution by the Secretary of the Department of Transportation, attestation by the Director of Highways and approval of the Governor, the original deed will be forwarded to the district office for delivery and closing of the transaction.

Immediately following delivery of the deed and receipt of payment for the property the district will prepare an "Accounts Receivable - Invoice" in accordance with the procedures outlined in [Section 7.04-5](#).

#### 5.09-7

#### EXCHANGE METHOD

The statement for disposal submitted with the district's recommendation for disposal must include sufficient detail to assure that subsection (c) of 605 ILCS 5/4-508 (see [Section 5.09-5](#)) is not applicable, and that the parcel may be disposed of by exchange.

CBLA then reviews all data and shall request concurrence from the Federal Highway Administration when required.

A quitclaim deed for conveyance of the parcel will also be prepared and forwarded to the district along with notification of approvals by the Director of Highways and the Federal Highway Administration advising that the exchange of the excess parcel for the acquisition of land needed for state highway purposes may then be completed.

Upon receipt of the same, the district shall obtain a written approval of the draft form of conveyance deed from legal counsel for the owner with whom the exchange is taking place, or the owner if he/she does not have legal counsel. The district should also proceed to obtain the necessary executed documents or copies thereof as set out in the acquisition policies and procedures found in [Chapter 4](#) for acquisition of the land or rights needed for state highway purposes, and prepare the required warrant requisition form. A copy of the owner's, or their legal counsel's, written approval of the exchange deed and the warrant request form including copies of required title data shall then be forwarded to the Central Bureau of Land Acquisition.

After title to the parcel being acquired has been approved, the Central Bureau of Land Acquisition will process the warrant request for issuance of the warrant when additional

payment by the state is required, and obtain the execution of the quitclaim deed by the Secretary, attestation by the Director of Highways and approval of the Governor. The original executed exchange deed together with title approval and the state warrant, if required, shall be forwarded to the district office for delivery and closing of the transaction.

Immediately following the receipt of payment for the property, the district shall prepare an "Accounts Receivable Remittance Statement" according to the procedures outlined in [Section 7.04-5](#).

Easements and access rights may also be exchanged providing the party with whom such exchange is being made is in ownership of the land to which such easement or access rights are released, and such owner is under advice of legal counsel to accept a quitclaim deed in lieu of an act of the legislature.

#### 5.09-8 INTER-DEPARTMENTAL TRANSFER METHOD

Other departments of state government, or authorities, commissions or other agencies of the state, occasionally request that certain property owned or controlled by the department's Division of Highways be transferred to such agencies for another public purpose.

For the most part, such requests are expected to be made formally at the central office level through the Secretary of Transportation. Such requests are then forwarded to the district engineer for consideration as to whether or not the transfer is advantageous to the state of Illinois.

Substantially the same process is followed insofar as district reviews and preparation of the required statement, except that no appraisal of the property to be transferred is required.

All data is then reviewed by CBLA. When appropriate, other central bureaus will also be given an opportunity to review and comment on the recommended disposal. The Central Bureau of Land Acquisition will also request approval of the disposal from the Federal Highway Administration when required.

Having obtained the approval of the Director of Highways, an inter-departmental transfer of jurisdiction document will be prepared by CBLA. The transfer document is executed by the Secretary and then forwarded to the requesting agency for their execution. The Secretary or the head of the transferring agency may obtain the Governor's approval. The document is then recorded in the appropriate county, after which one copy is returned for the district's records.

In cases where the department requires either jurisdiction of another agency's property or a temporary easement (or Department of Natural Resources (DNR) Permit) much the same procedure is followed. The district submits a memorandum stating the request and the purpose, along with a plan sheet indicating the property and telecommunicates a legal description to CBLA.

The central bureau will then create the necessary document or permit and obtain the Secretary's concurrence. The document or permit will then be forwarded to the appropriate agency for their concurrence. After the forms are returned to the central bureau, the Governor's approval will be obtained and the completed form will be returned to the district.

Jurisdictional transfers will then be recorded, with one copy being then returned to the central bureau for transmittal to the agency affected.

Temporary Easements or DNR permits will be placed in the appropriate parcel file at the district level.

5.09-9

#### LEGISLATIVE RELEASE METHOD

The statement for disposal and all other data submitted with the district's recommendation for disposal by legislative release is reviewed by CBLA. When appropriate, other central bureaus will also be given an opportunity to review and comment on recommended releases of easements. The Central Bureau of Land Acquisition will also request approval of the disposal by the Federal Highway Administration when required.

After approval of the disposal by the Director of Highways, a legislative release bill is then prepared and forwarded, together with one copy of the plat and appraisal, to the Office of Inter-Governmental Affairs, subject to the interested party having deposited the full amount of the appraised value for such release. All checks made out for the release of dedicated right-of-way should be made payable to the Treasurer of the State of Illinois and deposited in the Road Fund. A copy of the draft form of bill is also forwarded to the district for review of content, particularly with regard to the accuracy of the legal description.

In some cases, where it is proposed to release access rights to abutting property, the interested party may desire to develop the property before such legislation can be accomplished. The district may enter into an agreement for restoration of access rights with the developer in the form shown as [Exhibit 5.09-9](#), whereby the developer must agree to make the required payment of the appraised value of the access rights in advance and the department will then grant a temporary permit for an entrance to the highway and agree to initiate the required legislative process in the next session of the General Assembly.

It is also important the district inform the party in writing, the state of Illinois by this legislative action merely releases its easement in and/or restores access rights to the land and will not name an owner in the bill, nor will the state guarantee a transfer of title. Each individual seeking release of such an easement is expected to perfect his/her own title. Generally title insurance companies or title examining attorneys require an individual seeking to perfect title after release of the highway easement, to be the owner or to acquire ownership of the underlying fee of the easement to be released. Therefore, if there is any doubt as to the ability to perfect title, private advice and counsel should be sought in order that the party can be assured of receiving the full benefit of the release of the easement.

Following a review by the Office of Inter-Governmental Affairs, the department's recommendation for introducing the proposed bill in the next session of the General Assembly is submitted to the Office of the Governor. If accepted, a legislative sponsor will be designated and the bill drafted in final form by the Legislative Research Bureau to be introduced in the General Assembly.

Legislative release bills are typically introduced in the January to June session of each calendar year. Therefore, in order to ensure that a particular release will be introduced in an approaching session, the district submittal should be made to the Central Bureau of Land Acquisition no later than December 31st preceding the next session to ensure being included in the initial administration sponsored omnibus bill for legislative releases.

Assuming the bill is finally passed in both houses and approved by the Governor, the Central Bureau of Land Acquisition is provided with a certified copy of the act from the Secretary of State. Such acts normally require that a certified copy be recorded in the county recorder's office upon payment of the appraised value. The certified copy of the act shall then be filed for

recordation in the respective county recorder's office and a recorded copy finally returned to CBLA, while the original certified copy is retained in the district's files.

All "Accounts Receivable Invoice and Accounts Receivable Remittance Statements" shall be prepared by the district in accordance with procedures outlined in [Section 7.04-5 I](#).

#### 5.09-10 CONVEYANCE TO ANOTHER GOVERNMENTAL AGENCY OR NOT FOR PROFIT ORGANIZATION

The "Statement for Disposal of Excess Land or Rights" ([Exhibit 5.09-4A](#)) submitted with the district's recommendation must include sufficient detail to assure that 605 ILCS 5/4-508(c) (see [Section 5.09-5](#), Sale to Former Owner) is not applicable and that the excess parcel may be disposed of in accordance with the provisions of 605 ILCS 5/4-508(e).

- In this instance, the disposal may be initiated by the department or an outside agency which qualifies under state law. In either case, the district must determine that the disposal is in the department's best interest. Any conveyance should take into consideration the impact to adjacent property owners. Once the district is satisfied that the property in question may be conveyed, the transaction shall be approved by the Director of Highways and the FHWA, if required. The director's signing of the "Statement for Disposal of Excess Land or Rights" which is provided by the districts and contains the details of the disposal will indicate that all approvals have been obtained.
- Plats and surveys are obtained and all pertinent documents relating to the parcel are examined. These include titles, deeds, easements and possible permits currently existing on the property.
- The information gathered is then forwarded to the central office for final review and preparation of the conveyance documents. The Director of Highways authorizes the conveyance, and a proposed deed, or under certain circumstances a Bill of Sale ([Exhibit 5.07-B](#)), is returned to the district for the grantee to approve. Federal approval is obtained when necessary.
- Once the grantee has agreed to the form and content of the proposed deed or Bill of Sale ([Exhibit 5.07-B](#)), it is returned to the central office for final signatures by the department and the Governor. (If circumstances require a Bill of Sale, both the "Order and Approval to Dispose of Excess State Property" ([Exhibit 5.07-A](#)) and the Bill of Sale ([Exhibit 5.07-B](#)) will be signed by the district engineer before returning to the central office for final signatures.
- The completed document is then returned to the district for the closing. The district will then have the document recorded, if necessary, and send the original to the grantee.

IDOT will occasionally retain an interest in property, such as access rights or easements of other kinds as required for state highway purposes. The potential grantee should be aware of these limitations of the conveyance.

#### 5.10 MANAGEMENT OF OPERATING RIGHT OF WAY FOR NON-HIGHWAY RELATED USE - GENERAL

Where the department has jurisdiction of operating highway right of way and portions of such right of way, or certain space within such right of way, is determined as not being required presently or in the foreseeable future for state highway purposes, the temporary use and occupation thereof may be granted for non-highway related uses by the department, subject to

Federal Highway Administration (FHWA) approval where applicable. (FHWA approval is always required for leases on the interstate system). When leasing interstate right of way the department must also evaluate the environmental effects of the proposed leasing action before the lease is approved. These can be discussed at the coordination meetings with FHWA approval being obtained at that time. In most cases a leasing action will be classified as a categorical exclusion.

20 ILCS 2705/49.13 and 605 ILCS 5/4.201.16, authorize the department to lease or rent land or other property under its jurisdiction, provided that no such lease be for longer than five years.

In counties with a population of not less than 500,000 and not more than 800,000, a lease to any other department of state government, any authority, commission, or agency of the state, or a municipality, county, or township of the state, including in any land lease the corresponding vertical rights, subterranean and air rights, and sublease rights, may be for a period of time no longer than 25 years.

Based upon a series of Attorney General opinions, concurred in by the chief counsel for the department, it is the department's position that no such leasing of land or other property under its jurisdiction shall be for less than the fair market value of the leasehold.

It is department policy that each operating right of way parcel or rental unit shall be leased through the public solicitation of bids for not less than the current market rental rate as established by an appraisal. Exceptions to this policy may be considered where the property to be leased is inaccessible to other than the owner of only one abutting property, or when other unique circumstances exist.

Approval to waive the requirement to advertise for the solicitation of bids must, therefore, be recommended by the district at the same time as the application to lease is submitted to the Central Bureau of Land Acquisition, clearly setting out the circumstances and conditions for justification of such a waiver on a case by case basis.

605 ILCS 5/9-113 also provides that the department may, by written consent, permit the use of land or other property under its jurisdiction for non-highway related uses.

#### 5.10-1 DEFINITION

The terms "space," "airspace," "area," or "surface area" are used synonymously within this section and are defined as that which is located above, at or below the highway's established grade line and lying within the established operating right of way limits of an existing highway facility.

#### 5.10-2 PROCEDURE TO USE SPACE - GENERAL

Any individual, company, organization, corporation or public agency desiring to use space as defined herein must submit an application to the district engineer having supervision over state highways in the county where the desired site is located.

The application shall be submitted in writing and shall contain the names of the parties involved and a general statement of the proposed use together with any preliminary maps, sketches, photographs and plans which are necessary to describe the pertinent features in relation to the highway facility. Such written application shall be in the form shown as [Exhibit 5.10-2](#).

Upon receipt of an application, it is necessary that a complete evaluation be made within the department in order to determine (1) whether or not the proposed use will adversely affect the existing operating facilities of the department, (2) whether or not the land will be needed during the proposed period for operation, maintenance, improvement or construction of the highway facility, and (3) any adverse effects the proposed use of the area would have on the maintenance or operation of the highway facility. It is also necessary to prepare or cause to be prepared a lease agreement setting out the standard provisions and such other specific and/or unique conditions as to the use of the property to be leased. The form of lease agreement to be used is shown as [Exhibit 5.10-3](#).

The district land acquisition staff shall forward a copy of the application and supporting documentation to the district operations engineer with the proposed form of lease agreement for review, comments, and approval. After approval, land acquisition will then forward two (2) copies of the application and supporting documents including the proposed form of lease together with the district's comments and recommendations to the Central Bureau of Land Acquisition. The Central Bureau of Land Acquisition will in turn review and obtain comments and approvals of the proposed use from other central bureaus as appropriate. If the proposal to lease such space is found to be satisfactory, the Central Bureau of Land Acquisition will obtain approval from the FHWA, if applicable. After all approvals are received, the district will be authorized to proceed with leasing the desired space in accordance with procedures set forth in the following paragraph.

#### 5.10-3

#### LEASE AGREEMENT

The occupancy and use of operating highway right of way for a non-highway use by lease agreement shall be in the form shown as Lease Agreement, [Exhibit 5.10-3](#), prepared in duplicate. Although the agreement may vary somewhat depending upon the type of use proposed, it shall as a minimum contain the following provisions:

- The party responsible for occupying, developing and using the space
- A general statement of the proposed use, the effective date and term of lease
- The general design for the use of the space, including any facilities to be constructed, and such maps, plans or sketches as are necessary to set out pertinent features in relation to the highway facility
- A detailed description (three-dimensional, if applicable) of the space to be occupied and used
- The design and construction of any improvements or structures to be built within the approved space shall be subject to the prior approval of the department - If the space is located on the National Highway System, the design and construction shall also be subject to the approval of FHWA.
- Any change in the authorized use of space shall require prior written approval by the department subject to concurrence by the FHWA (where applicable).
- The lease agreement for such space shall not be transferred, assigned or conveyed to another party without prior approval by the department subject to concurrence by the FHWA (where applicable).
- The lease agreement will be terminated by the department in the event that the space facility ceases to be used or is abandoned.



- The lease agreement will be terminated by the department if violated and such violation is not corrected after written notice of noncompliance has been given. Further, that in the event the agreement is terminated and the department deems it necessary to request the removal of the facility occupying the space, the removal shall be accomplished at the sole expense of the lessee in a manner prescribed by the department.
- When deemed necessary by the department or the FHWA (where applicable) provision for adequate insurance by the responsible party for the payment of any damages which may occur during or after construction of the space facilities and saving the state harmless. Exception to this requirement may be made where the proposal is for the use by a governmental agency, when such agency is assigned the specific responsibility for payment of any related damages occurring to the highway facility and to the public for personal injury, loss of life and property damage.
- The department and authorized FHWA representatives (where applicable) to enter the space facility for the purpose of inspection, maintenance or reconstruction of the highway facility when necessary
- The facility to occupy the space will be maintained so as to assure the structures and the area within the highway right of way boundaries will be kept in good condition, both as to safety and appearance, and that such maintenance will be accomplished in a manner so as to cause no unreasonable interference with highway use. In the event the responsible party fails in its maintenance obligations, there will be provisions for the department to enter the premises to perform such work and charge the costs incurred in connection therewith to the responsible party.
- Appropriate provision of Appendices "C" of the State's Civil Rights Assurances with respect to Title VI of the Civil Rights Act of 1964 and 49 CFR 21
- Any significant revision in the design or construction of a facility shall require written prior approval by the department subject to concurrence by the FHWA (where applicable).
- The department shall not lease any real property to a person who is delinquent in paying any real property taxes on a leasehold estate under Section 9-195 of the Property Tax Code. If the department receives notice under Section 21-63 of the Property Tax Code that a lessee of property under our control is delinquent in paying property taxes, we shall notify the lessee that the lessee has 60 days to pay the delinquent taxes, plus penalties and interest, if any, or the lease shall be terminated. If the lessee fails to submit proof to IDOT that the lessee has paid the taxes, penalties, and interest, we are to terminate the lease. A person whose lease was terminated under this section is not allowed to lease state-owned real property or bid on a lease for state-owned real property for a period of two years after the termination of the lease.

Within 60 days after entering into an agreement to lease IDOT owned real property, the district is to notify the county clerk of the county in which the real property is located of the name and mailing address of the lessee.

The effective date of the lease agreement with any lessee should be no later than the date the prospective lessee occupies the property.

As a suggestion, it would seem to be desirable for leases to become effective on the first day of the month so preparation of invoices and other similar management activities involving the leased premises can be conducted more effectively.

#### 5.10-4 APPRAISAL

Upon being authorized to proceed with the proposed leasing of space, the district must obtain an appraisal to establish the current market rental rate. One or more appraisals must be prepared in accordance with current appraisal policies and procedures. In the majority of situations one appraisal should suffice. Appraisals are to be reviewed by the district reviewing appraiser and then submitted to the Central Bureau of Land Acquisition with a statement that the accepted or documented appraisal indicates the current market rental rate of the premises in question.

#### 5.10-5 ADVERTISING & NOTICE TO BIDDERS

To insure solicitation for bids is public, the proposal must be advertised by placing a notice in a local newspaper of general circulation. This notice shall be published at least once each week for two consecutive weeks with the lease bidding to be held within a reasonable time, no less than 48 hours, after the date of the last publication of the notice. The sale cannot be held less than 14 days after the first publication.

As a minimum, newspaper advertisements shall contain the following information:

- General description and location of the property to be leased
- The dates and times the property will be open for inspection
- The date and time when sealed bids will be opened or oral bidding will commence
- The location where sealed bids will be received and opened or the public auction will be conducted
- Telephone number(s) of person(s) to be contacted for information concerning the lease
- Americans with Disabilities Act requirements as shown in [Exhibit 5.04-3](#)

The "Notice to Bidders and Bidders Proposal" form attached as [Exhibit 5.10-6](#) shall also be prepared showing the required information for distribution to prospective bidders.

The department is now making these lease notices available on the department's Internet site located at: <http://www.dot.state.il.us/>. This is the only other advertising that will be placed. When the ad is sent to the newspaper(s) in the local area a copy of the notice is to be e-mailed to the Central Bureau of Land Acquisition property manager who will place it on the department Internet servers.

#### 5.10-6 BIDDERS PROPOSALS AND PERFORMANCE DEPOSITS

In the case of written sealed bids, each bid, shall be (1) for not less than the current market rental rate, either monthly or annual, as shown on the appraisal review certification, and (2) submitted on the "Notice to Bidders and Bidders Proposal" form ([Exhibit 5.10-6](#)), accompanied by a bank draft, cashier's check, certified check, or money order as a performance deposit (or bid bond) made payable to the Treasurer of the State of Illinois. The deposit(s) shall be retained

by the district pending approval and execution of the lease agreement. The deposit checks of unsuccessful bidders shall be returned to them immediately following approval and execution of the lease agreement with the successful bidder.

In the case of auction bids, it is advisable to obtain a register of the names and addresses of all prospective bidders before commencing the auction. The names and addresses should be verified by also registering the bidders drivers license or social security number. The successful bid must be for not less than the current market lease rate, either monthly or annual, as shown on the appraisal review certification. At the conclusion of oral bidding, the prospective lessee shall execute the completed "Notice to Bidders and Bidders Proposal." A performance deposit (or bid bond) in the form of a certified check, cashier's check, money order or bank draft must also be obtained from the successful bidder immediately after completion of bidding, made payable to the Treasurer of the State of Illinois. The deposit check shall be retained by the district pending approval and execution of the lease agreement.

All bidders, whether by sealed bids or auction bids, must be fully informed of the required performance deposit and that the department reserves the right to retain such deposit as liquidated damages in the event the successful bidder refuses to complete the lease agreement transaction.

All performance deposit checks must be in an amount equal to at least one-twelfth (1/12) of the current market annual lease rate as established by the appraisal review certification. The amount may be increased at the discretion of the district engineer.

#### 5.10-7

#### AFTER THE BIDDING

Upon the conclusion of bidding, the approved lease agreement, in duplicate, shall be filled in with the named lessee and the lease rate to be paid, and properly executed by the successful bidder. The duplicate original copies shall be submitted with an attached premise plat, drawings and other exhibits required to be attached to the lease. Also send a report of bidding, if by auction, or a list of bids, if by sealed bids, a copy of the "Notice to Bidders and Bidder's Proposal" completed by the successful bidder, together with a recommendation for the acceptance of the bid, to the Central Bureau of Land Acquisition for review and to obtain execution of the lease agreement by the Department.

In order to avoid any future misunderstanding concerning the transaction, the named lessee should be exactly the same on the lease agreement as that shown on the bidder's proposal. Also, if the lease agreement is to be executed by a trust, an affidavit of disclosure of the beneficial interests of such trust must be obtained and submitted at this time to the Central Bureau of Land Acquisition. After execution by the Secretary of the Department of Transportation and attestation by the Director of Highways, the duplicate originals of the lease agreement will be forwarded to the district office for delivery of one executed copy to the lessee and completion of the transaction. The Central Bureau of Land Acquisition will also forward a copy of the fully executed lease to the Federal Highway Administration, if applicable. A copy of the fully executed lease shall be furnished to the district operations/maintenance engineer.

Immediately following delivery of the lease agreement and receipt of the required payment the district will prepare an "Accounts Receivable Invoice" and an "Accounts Receivable Remittance Statement" in accordance with the procedures outlined in [Section 7.04](#).

#### 5.10-8 SOLICITING NEW LESSEES OR RENEWAL OF LEASES

As soon as it is determined that the incumbent lessee occupants intend to vacate the leased space, every effort should be made to solicit for prospective lessees. Whether or not there is an existing waiting list of prospective lessees will determine the extent of solicitation required. It may be necessary and is permissible to advertise locally for prospective lessees.

New applications by prospective lessees for space previously leased by others must be processed and the same procedures followed as required in [Sections 5.10-2 through 5.10-7](#).

Where prior approval was given to waive the public bidding requirement on behalf of an incumbent lessee, and the incumbent lessee requests that the lease agreement be renewed, it is not necessary that a new formal application be submitted, provided the area and use of the space is to remain unchanged. Such proposed renewal of a lease should, however, be reviewed and concurred in by the district maintenance/operations bureau, and the district's recommendation for renewal and waiver of the public bidding requirement approved by the Central Bureau of Land Acquisition. A current appraisal for establishing the renewal rate must also be obtained and processed as required in [Section 5.10-4](#).

#### 5.10-9 USE OF SPACE BY PERMIT

605 ILCS 5/9-113 provides that the department may, by written consent, permit the use of land or other property under its jurisdiction for non-highway related uses.

Units of local government may therefore make application for consent to use and occupy operating highway right of way areas under elevated structures or adjacent to state highway facilities under the department's jurisdiction, for public purposes. Therefore, consideration for such consent shall be given to applications from municipalities, townships, counties, forest preserve districts, park districts or other units of local government on a case by case basis.

Such consent shall be in the form shown as "Permit For Use of Surface Area Under Elevated Highway Structures or Adjacent to Highway Facilities", [Exhibit 5.10-9](#), prepared in duplicate. Although the form of permit may vary to some degree depending upon the type of use proposed, it shall as a minimum contain the following provisions:

- The unit of local government responsible for occupying, developing and using the space
- A general statement of the proposed use
- A detailed description (three dimensional under structures) of the space to be occupied, developed and used
- The permit is valid for no more than a five (5) year period.
- The permit to be revoked at will by the department upon thirty (30) days written notice, or may also be revoked upon written notice for any breach of terms or conditions or in the event the permittee ceases to use or abandons the premises
- If the permit is revoked, terminated or expires, the permittee agrees to immediately yield possession to the department, and at the permittee's sole cost and expense, restore the premises to a condition satisfactory to the department and to remove all improvements and appurtenances thereto, or any other property of the permittee, except any surfacing and column guards.

- Any property of the permittee not removed within thirty (30) days after revocation or termination shall be deemed abandoned by the permittee and may be removed and disposed of in any manner seen fit by the department, or the department may elect to declare said property to be property of the department, whereupon all rights of the permittee shall terminate immediately.
- The plan of operation for development, occupation and use of such space shall be subject to the prior approval of the department, and if located under or adjacent to a federal-aid highway facility it shall be subject to the approval of the FHWA.
- The plan of operation must give proper consideration to design of parking or other arrangements, plantings or other screening measures to improve the aesthetics and appearance of the area, surfacing, lighting, fencing, striping, curbs, wheel stops, pier protection, etc., and access for fire protection and fire fighting equipment.
- The permittee shall be responsible for ascertaining the correct location of property lines of the premises.
- Any improvements made to the premises shall be fire resistant and in accordance with applicable local building codes, and that the premises shall not be used for the manufacture or storage of flammable material, explosives or hazardous materials, nor for the conduct of any business or occupation causing the emission of fumes, vapors, odors, drippings, droppings, or discharges deemed to adversely affect the highway facility or use thereof.
- The premises are to be maintained and kept in good condition as to safety and appearances, and be accomplished without unreasonable interference of highway use. Upon failure to fulfill such maintenance obligations, the department may enter the premises and perform same at the expense of permittee.
- The department and the FHWA shall have the right to enter, inspect and view the premises at all times and to take possession thereof in case of national or other emergency situations.
- The permittee shall not transfer or assign its rights under the permit without prior written approval of the department and FHWA.
- There shall not be erected or allowed to be erected any signs upon the premises, except as approved in writing by the department. Only signs pertaining to the use of the premises shall be considered for approval.
- The permittee assumes all liability for all losses, expenses costs, actions, courses of action, demands, damage and claims in connection with the use of such premises.

The procedure for evaluation and processing of permit applications shall be the same and in accordance with [Section 5.10-2](#). The provisions of [Sections 5.10-3 through 5.10-8](#) are applicable to the leasing process only.

Upon approval to consent to a permitted use, such permit may be issued by the district engineer through either the district land acquisition engineer or the district permit engineer, at the direction of the district engineer.

INVENTORY AND MANAGEMENT OF LEASED  
OR PERMITTED USE AREAS OF OPERATING RIGHT OF WAY

DLA shall maintain an individual record of each parcel or unit of space situated within the limits of operating highway right of way under the department's jurisdiction, which space has been identified as being available for leasing, or for a permitted use.

The form to be used for this purpose is identified as "Inventory and Management of Space" ([Exhibit 5.10-10A](#)) which provides information on each individual parcel or unit currently under lease agreement or used and occupied by permit, as well as each vacant parcel or unit of space which is available for leasing or permitted use. Page 2 of this form provides for identification of the current lessee or permittee and a lease payment schedule for a five year term to be maintained on each lessee.

This form shall be initiated by the district land acquisition staff as soon as a parcel or unit of space has been identified and considered available for leasing or permitted use. Line item instructions for this form are found in [Exhibit 5.10-10B](#). Also, a form of inventory and index of all parcels or units of operating highway right of way space available for or currently in use, [Exhibit 5.10-10C](#), should be maintained as the district's inventory and for easy reference to the individual parcel inventory and management forms.

As an alternative to this method, the district may maintain a personal computer based inventory data base as long as all necessary information is retained and available for update and review. A disk containing this format is available from the central bureau.

A parcel or unit file shall also be maintained on each leased or permitted space containing the following information:

- Location of parcel, survey highway station or other appropriate identification including a photograph if available
- Identification including copy of application and plans showing the authorized use of the space
- A detailed description
- As-built construction plans of the highway facility at the location where the use of space was authorized or such plans should be available within the district
- Plans of the facility, if any, authorized to occupy the space
- A copy of the prior and current executed lease agreement or permit
- Other pertinent information and records such as affidavits of disclosure of beneficiaries of a trust
- Copy of prior and current appraisal including appraisal reviewer's certification on all leased parcels (not required on permitted parcels)

During the time of property management responsibility of the department, certain expenditures of funds may be required. The following procedures will be followed where it is necessary to purchase services and/or materials in connection therewith:



- Authorized expenditures from current and subsequent fiscal year programs will be limited to the costs and expenses incurred for appraisals obtained to establish the current rental rate for the premises to be leased and advertising costs for the solicitation of tenants to use and occupy such space.
- All costs and expenses necessary for the repair and/or maintenance of leased or permitted areas including appurtenances thereto, shall be authorized and approved by the district operations engineer and, where required, the Central Bureau of Operations, and any work performed and/or materials used and furnished in connection therewith shall be approved by and under the direct supervision of the district maintenance/operations staff.

In addition to the specific policy and procedures set forth in this section all activities, operations and management of the leased or permitted space will be conducted in accordance with pertinent provisions and requirements of applicable sections, paragraphs and chapters of this manual.

## **5.11 LAND CONVEYANCE PROCEDURES INVOLVING JURISDICTIONAL TRANSFERS TO OTHER HIGHWAY AUTHORITIES**

Jurisdictional Transfers prior to the enactment of 605 ILCS 5/4-508(d) empowered the recipient with authority and obligation to administer, control, construct, maintain, and operate a highway or street subject to the provisions of the "Illinois Highway Code." They did not include the conveyance of property.

605 ILCS 5/4-508(d) effective January 1, 1999, provides "If the department enters into or currently has a written contract with another highway authority for the transfer of jurisdiction of any highway or portion thereof, the department is authorized to convey, without compensation, any land, dedications, easements, access rights, or any interest in the real estate that it holds to that specific highway or portion thereof to the highway authority that is accepting or has accepted jurisdiction."

Jurisdictional Transfer Agreements can be divided into two categories -- those executed and those yet to be executed. Although quite similar, the procedure for conveyance of property is slightly different for each of these categories. The process to be followed is enumerated in the following sections. Flow charts, [Exhibits 5.11-A](#) and [5.11-B](#) are also included outlining the courses of action. Conveyances under this section must receive prior FHWA approval when appropriate.

### **PAST JURISDICTIONAL TRANSFERS**

Conveyance of land associated with a highway whose jurisdiction has previously been transferred may be initiated by either the department or a Local Public Agency. In either case, District Land Acquisition (DLA) should seek conditional concurrence/general agreement from District Operations (DO), Project Implementation (DPI), Local Roads and Streets (DLR&S), Studies and Plans (DSP), and Program Development (DPD) before initiation or continuation of discussions with the Local Public Agency.

Should ensuing discussions between the Local Public Agency and the department produce an agreement to proceed, DLA should prepare a Letter of Intent to be sent to the Local Public Agency (LPA). It should propose conditions of a land conveyance and include:

- A general description of the property: termini, length, etc.

- Copies of pertinent prior Jurisdictional Transfers
- Details associated with how plat(s) and legal descriptions will be prepared
- A statement that “conveyance documents will include only property deemed to be necessary for highway use and not attendant excess property”
- A statement that “no part of the transferred property can be vacated or disposed of without the approval of the department, which may require compensation for non-public use”
- A statement that conveyance would be subject to existing permits
- Copies of existing permits (utility and access)
- An LPA sign-off area for concurrence/nonconcurrence
- A general location map indicating the limits of the area conveyed

This Letter of Intent is then transmitted to the LPA for its consideration. If the LPA acknowledges concurrence by either returning the Letter of Intent properly noted or by separate letter, DLA should then begin the more detailed preparation of materials for the proposed conveyance required to be submitted to the Central Bureau of Land Acquisition (CBLA).

DLA should now initiate a Statement for Transfer of Land Rights Associated With a Jurisdictional Transfer ([Exhibit 5.09-4D](#)) for review and concurrence of other district bureaus and sections whose operations will be affected by the proposed transfer. This statement is similar to the Statement for Disposal of Excess Land or Rights. A major difference is the inclusion of a review and concurrence by the District Local Roads and Streets Engineer.

Upon concurrence by the affected district bureaus, the DLA or the LPA should then prepare or cause to be prepared a plat and legal description of the property proposed to be transferred. The plat must show a north arrow, area to be transferred, and sufficient lines, dimensions, angles, bearings, etc., so the parcel may be laid out on the ground. The legal description should be prepared on the “Legal Description Master Copy” form compatible with the department’s word processing network and titled A Transfer of Land Rights Associated With a Jurisdictional Transfer. If it is determined that the plats and legals are to be prepared by the LPA, the survey and title records located in the district offices shall be made available to the LPA if necessary.

Construction plan sheet(s) associated with the original Jurisdictional Transfer should be assembled and have the area proposed to be transferred clearly indicated. Copies of permits issued within the area to be transferred should also be assembled. These permits are to include access/entry and utility uses.

DLA, on behalf of the district, then submits a recommendation for transfer, and the above information, in duplicate, to the CBLA for review and further processing.

This data is then reviewed by the CBLA. Other central bureaus will be invited to review and comment on the recommended transfer if deemed appropriate. If found acceptable, CBLA will obtain the approval of the Director of Highways and the FHWA when necessary. Subsequent to approval by the Director, the CBLA will prepare the necessary conveyance documents. This

type of instrument shall be a Quit Claim Deed. These documents will be transmitted to the DLA along with a notification to proceed.

The district will then examine the CBLA material and, if in agreement, submit the documents to the LPA for review/appropriate action.

Should the LPA find the transfer material acceptable, it should pass and execute the appropriate ordinances/resolutions, thereby agreeing to accept the conveyance upon execution by the Secretary of Transportation. Five certified copies of the ordinance/resolution are to be provided to the district by the LPA.

DLA reviews this material and forwards it to the CBLA if found to be proper. CBLA finalizes the documents, obtains the Secretary's signature and returns them to the DLA for the act of recording.

DLA records the documents in the appropriate county(ies), retains a copy(ies), sends the originals to the LPA and copies to the CBLA, CBLR&S, DO and DLR&S.

#### FUTURE JURISDICTIONAL TRANSFERS -- JURISDICTIONAL TRANSFERS NOT YET EXECUTED

A question of Jurisdictional Transfer for a particular highway may arise in the course of planning or design. Should it be determined to be in the best interest of the public or department to transfer the real estate interest in conjunction with the JT, the district and Local Public Agency (LPA) should prepare a Letter of Intent and begin the process to enter into a Jurisdictional Transfer Agreement utilizing BLR Form 1600 (Rev. 01/99) or 1601 (Rev. 01/99). The Letter of Intent is to be prepared by District Land Acquisition (DLA) and propose conditions of a land conveyance and include:

- A general description of the property: termini, length, etc.
- Details associated with how plat(s) and legal descriptions will be prepared
- A statement that "conveyance documents will include only property deemed to be necessary for highway use and not attendant excess property."
- A statement that "no part of the transferred property can be vacated or disposed of without the approval of the department, which may require compensation for non-public use."
- A statement that conveyance would be subject to existing permits
- Copies of existing permits (utility and access)
- An LPA sign-off area for concurrence/nonconcurrence
- A general location map indicating the limits of the area conveyed

The appropriate BLR form and Letter of Intent are then transmitted to the LPA for consideration. If the LPA acknowledges concurrence by either returning the Letter of Intent properly noted or by separate letter, DLA should then begin the more detailed preparation of materials for the proposed conveyance required to be submitted to CBLA.

DLA should now initiate a Statement for Transfer of Land Rights Associated With a Jurisdictional Transfer ([Exhibit 5.09-4D](#)) for review and concurrence of other district bureaus and sections whose operations will be affected by the proposed transfer. This statement is similar to the Statement for Disposal of Excess Land or Rights. A major difference is the inclusion of a review and concurrence by the District Local Roads Engineer.

Upon concurrence by the affected district bureaus, the DLA or the LPA should now prepare or cause to be prepared a plat and legal description of the property proposed to be transferred. The plat should show a north arrow, area to be transferred, and sufficient lines, dimensions, angles, bearings, etc., so the parcel may be laid out on the ground. The legal description should be prepared on the "Legal Description Master Copy" form by way of the department's word processing network and titled "A Transfer of Land Rights Associated With a Jurisdictional Transfer." If it is determined that the plats and legals are to be prepared by the LPA, the survey and title records located in the district offices shall be made available to the LPAs if necessary.

Construction plan sheet(s) associated with the Jurisdictional Transfer should be assembled and have the area proposed to be transferred clearly indicated. Copies of permits issued within the area to be transferred should also be assembled. These permits are to include access/entry and utility uses.

DLA, on behalf of the district, then submits a recommendation for transfer, and the above information, in duplicate, to the CBLA for review and further processing.

This data is then reviewed by the CBLA. Other central bureaus will be invited to review and comment on the recommended transfer if deemed appropriate. If found acceptable, CBLA will obtain the approval of the Director of Highways and the FHWA when necessary. Subsequent to approval by the Director, the CBLA will prepare the necessary conveyance documents. The type of instrument shall be a quitclaim deed. These documents will be transmitted to the DLA along with a notification to proceed.

The district will then examine the CBLA material and, if in agreement, submit the documents to the LPA for review/appropriate action.

Should the LPA find the transfer material acceptable, it should pass and execute the appropriate ordinances/resolutions, thereby agreeing to accept the conveyance upon execution by the Secretary of Transportation. Five certified copies of the ordinance/resolution are to be provided to the district by the LPA.

DLA reviews this material and forwards it to the CBLA if found to be proper. CBLA finalizes the documents, obtains the Secretary's signature subsequent to the enactment of the Jurisdictional Transfer and returns them to the DLA for the act of recording.

DLA records the documents in the appropriate county(ies), retains a copy(ies), sends the originals to the LPA and copies to the CBLA, CBLR&S, DO and DLR&S.

#### 5.11-1 LAND VACATED OR DISPOSED OF SUBSEQUENT TO IT BEING CONVEYED UNDER 605 ILCS 5/4-508(D)

605 ILCS 5/4-508(d) includes a provision that "no part of the transferred property can be vacated or disposed of without the approval of the department, which may require compensation for non-public use." The deed of conveyance from the department to the other highway authority will include specific language to reserve this right to approve future conveyances.

The Secretary of the department or the Secretary's designee will approve or disapprove all subsequent vacations or disposals of property conveyed by the department under 605 ILCS 5/4-508(d).

Any highway authority who desires to vacate property conveyed to them under 605 ILCS 5/4-508(d) will submit their request through the appropriate district office. The district will prepare a memorandum forwarding the request to the Central Bureau of Land Acquisition. It is important to note that any subsequent vacations or disposals which involve a non-public use of the property originally conveyed by the department may require the department to receive compensation. This compensation will be determined by district land acquisition in the form of an appraisal of the fair market value.

The Central Bureau of Land Acquisition will process the request to vacate or dispose of the subject property through the Office of the Secretary. The Secretary's decision will then be returned to the district by CBLA. The district will, in turn, inform the impacted highway authority.

**CHAPTER 5  
PROPERTY MANAGEMENT  
POLICIES AND PROCEDURES  
EXHIBIT INDEX**

5.02-2A	PROJECT INVENTORY OF IMPROVEMENTS
5.02-2B	INVENTORY OF IMPROVEMENTS LINE ITEM INSTRUCTIONS
5.02-2C	CLASSIFICATION AND DISPOSITION VALUES-NURSERY STOCK
5.02-3	IMPROVEMENT DISPOSITION AND RENTAL VALUES
5.03-1	AGREEMENT FOR RETENTION AND REMOVAL OF BUILDINGS AND/OR OTHER IMPROVEMENTS
5.03-3A	RENTAL AGREEMENT
5.03-3B	ANNUAL RENTAL REVIEW
5.03-3C	RENTAL REVIEW LETTER TO TENANT
5.04-3	AMERICANS WITH DISABILITIES ACT PROVISIONS
5.05-1	APPLICATION FOR RENTAL
5.05-5A	NOTICE AND DEMAND FOR POSSESSION
5.05-5	FINAL DEMAND LETTER
5.05-8	LEAD-BASED PAINT HAZARD DISCLOSURE (RESIDENTIAL TENANTS)
5.06-4	GENERAL INFORMATION FOR FILLING WELLS
5.06-8	AFFIDAVIT
5.07-A	ORDER AND APPROVAL TO DISPOSE OF EXCESS STATE PROPERTY
5.07-B	BILL OF SALE (BUILDINGS)
5.07-C	BILL OF SALE (GOODS AND CHATTELS)
5.07-1	NOTICE TO BIDDERS AND BIDDERS PROPOSAL
5.07-6	LEAD-BASED PAINT HAZARD DISCLOSURE (RESIDENTIAL PUBLIC SALE)
5.09-1	(NORWAY) - LINE ITEM INSTRUCTIONS
5.09-1A	(NORWAY) SELECTION OF REPORT TYPE – LINE ITEM INSTRUCTIONS
5.09-4A	STATEMENT FOR DISPOSAL OF EXCESS LANDS OR RIGHTS
5.09-4B	LINE ITEM INSTRUCTIONS - FOR DISPOSAL STATEMENT
5.09-4C	LEGAL DESCRIPTION - MASTER COPY
5.09-4D	STATEMENT FOR TRANSFER OF LAND RIGHTS ASSOCIATED WITH A JURISDICTIONAL TRANSFER
5.09-6A	NOTICE TO BIDDERS AND BIDDERS PROPOSAL (EXCESS LAND)
5.09-6B	DISCLOSURE OF OWNERSHIP AFFIDAVIT
5.09-9	AGREEMENT RELATING TO RESTORATION OF ACCESS RIGHTS
5.10-2	APPLICATION FOR USE OF SURFACE AREA UNDER ELEVATED HIGHWAY STRUCTURE OR ADJACENT TO HIGHWAY FACILITY
5.10-3	LEASE AGREEMENT NON-HIGHWAY USE (RIGHT OF WAY)
5.10-6	NOTICE TO BIDDERS AND BIDDERS PROPOSAL (NON-HIGHWAY USE SPACE LEASE RIGHT OF WAY)
5.10-9	PERMIT FOR USE OF SURFACE AREA
5.10-10A	INVENTORY AND MANAGEMENT OF RIGHT OF WAY LEASES
5.10-10B	GENERAL INSTRUCTIONS FOR COMPLETING 5.10-10A
5.10-10C	INDEX - NON-HIGHWAY USE LEASE AGREEMENT
5.11A	LAND CONVEYANCE PROCEDURES - JURISDICTIONAL TRANSFERS NEW JT
5.11B	LAND CONVEYANCE PROCEDURES - JURISDICTIONAL TRANSFERS PAST JT